THE PROVINCES AND PROPERTY MAINTENANCE BYLAWS

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REVIEW OF PROVINCIAL ENABLING LEGISLATION, POLICIES AND ACTIVITIES IN SUPPORT OF MUNICIPAL MAINTENANCE AND OCCUPANCY BYLAWS

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ERRATA SHEET

1. The New Brunswick Model: Dangerous or Unsightly Building Bylaw, which should appear at p. 23 of Appendix "C", instead appears as the final two pages of Appendix "B".

2. The New Brunswick Residential Properties Maintenance and Occupancy Code, referred to as Schedule "A" of the N.B. Model Maintenance and Occupancy Standards for Residential Properties not only appears in Appendix "C", as it should, but is also repeated following p. 75 of Appendix "B", without any indication that it refers to New Brunswick.

The views expressed in this report are the author's and should not be attributed to Canada Mortgage and Housing Corporation or the Government of Canada.

TABLE OF CONTENTS

PAGE

Executive Summary i
Introduction 1
Definitions 3
Summary of Findings 7
Newfoundland 11
Prince Edward Island 17
Nova Scotia 22
New Brunswick 25
Quebec 35
Ontario 45
Manitoba 64
Saskatchewan 73
Alberta 85
British Columbia 93
Conclusion 105

APPENDICES

Appendix 'A' - Enabling Legislation for M&O Bylaws 109
Appendix 'B' - Other Relevant Provincial Legislation 150
Appendix 'C' - Model Bylaws 225
Appendix 'D' - Update on M&O Bylaws in Selected Municipalities 249
Appendix 'E' - List of Canadian Municipalities with M&O Bylaws 255
Appendix 'F' - Members of Steering Committee and List of Persons Interviewed 260

EXECUTIVE SUMMARY

THE PROVINCES AND PROPERTY MAINTENANCE BYLAWS
A REVIEW OF PROVINCIAL ENABLING LEGISLATION, POLICIES AND ACTIVITIES IN SUPPORT OF MUNICIPAL MAINTENANCE AND OCCUPANCY BYLAWS

When the National Housing Act was amended in 1973 to create the RRAP and NIP programs, requirements for the adoption of occupancy and building standards, as well as provisions for developing systems to enforce such standards, were included in the new legislation.

During these early years, CMHC took a rather low profile with respect to these provisions, it having been felt that, since such bylaws were new for many, if not most, Canadian communities, they needed some time to evolve. At that time, substantial gaps existed in provincial enabling legislation to empower municipalities to enact maintenance and occupancy (M&O) bylaws (although several larger communities had such powers in their respective city charters).

During the late 1970's, effective M&O programs developed in a number of Canadian communities. Yet relatively few RRAP communities had effective M&O bylaw programs, and so, by the early 1980's, concern was being more widely expressed over the lack of progress that had been made. CMHC's senior management and others expressed concern that M&O bylaws were not being administered more widely or more actively and in May 1981, the joint CAHRO/CMHC Task Force on RRAP recommended "that municipalities be urged to take a more active role in maintenance and occupancy bylaw enforcement."

As a first step towards responding to this concern and promoting municipal efforts for the maintenance of housing, CMHC's Residential Improvement Division published, in 1982, "A Profile of Successful Maintenance and Occupancy Experience in Canada." The report not only examined a number of M&O bylaw programs that were being effectively administered, but also identified the major factors preventing or discouraging municipalities from undertaking such programs. Lack of encouragement and support by senior levels of government was one of the major inhibitors.

The 1982 report found that enabling legislation, where it existed, and policies regarding M&O bylaws varied widely from province to province, ranging from active encouragement of M&O bylaws to active discouragement. It was beyond the scope of that report to deal extensively with such legislation and policies, however. Yet it became evident that, if CMHC were to play any kind of role in encouraging M&O bylaw administration, or in encouraging municipalities to develop comprehensive strategies for maintaining their existing housing stock, of which M&O bylaws were a component, it would have to become more knowledgeable about the degree to which municipalities are empowered to enact these bylaws, and about what each province was doing to encourage or discourage their administration.

This, then, was the background for this report of provincial legislation, policies and activities affecting the maintenance of residential properties. It examines, as well, a range of policies and activities, beyond M&O bylaws, that also help to maintain the existing housing stock. This includes various kinds of fire prevention activity, as well as enabling legislation for dangerous and derelict buildings and nuisances (which most provinces have had before enabling legislation for M&O bylaws was enacted); while their sanctions are often stronger than those of M&O bylaws, their disadvantage is that they cannot come into play until a building is well along the road to dilapidation. It also describes, in some provinces, remedies for poor housing conditions, available to tenants, and in some cases landlords, too, under residential tenancies laws.

The period during which this study was conducted (1983 and the first half of 1984) has been characterized by:

- an increasing awareness of the importance of maintaining the existing housing stock;

- a far from static situation with respect to M&O bylaws;

- the enactment, in two of the three provinces lacking it (PEI and Saskatchewan), of enabling legislation permitting municipalities to adopt M&O bylaws.

This leaves only one province, B.C., lacking general enabling legislation for M&O bylaws, but even there, Vancouver is empowered, through its city charter to have such bylaws.

What has been the impact of this enabling legislation (coupled, of course, with CMHC and Ontario requirements for M&O standards as a precondition for RRAP and certain other programs) in terms of the number of municipalities throughout the country that have M&O bylaws, and in terms of the percentage of the Canadian population that is protected by such bylaws? We have attempted to show this in two ways, each giving a somewhat different perspective.

Table I shows the scope of enabling legislation for M&O bylaws in the various provinces, as well as a brief citation of the enabling legislation and its dates of enactment and most recent amendment (greater detail is found in the body of the report). The table also shows those provinces with model bylaws. More germane to the point at hand, it shows the number of municipalities with bylaws enacted pursuant to this legislation (thus not including municipalities whose bylaws stem from their city charters), as well as the percentage of municipalities of over 2500 population which have M&O bylaws, in this case including those with bylaws pursuant to municipal charters as well as those whose bylaws are authorized by general enabling legislation. More precise data on just which communities have M&O bylaws can be found in Appendix "E". (One interesting fact that was revealed by making this analysis was the surprising number of municipalities with populations under 2500 which have such bylaws. There are, for example, 66 such municipalities in Ontario, and it is only one province where this situation is present.)

TABLE I:

CURRENT PROVINCIAL ENABLING LEGISLATION FOR PROPERTY MAINTENANCE AND OCCUPANCY BYLAWS
(exclusive of authority granted in individual City Charters)

	Nfld.	P.E.I.	N.S.	N.B.	Quebec	Ontario	Manitoba		Sask.	Alberta	B.C.
SCOPE											
Maintenance	x	x	x	x	x	x	x	x	x	x	
Occupancy	x	x	x	x	x	x	x	x		x	
Residential only			x		x						
All properties	x	x	(c)			x	x	x	x	x	
LEGISLATIVE CITATION(S), including date of adoption and most recent	Urban & Rural Planning Act 1970 1982	Municipalities Act 1983 -	Towns Act 1967 1980	Municipalities Act 1972 1973	Loi sur les Cités et Villes as amended by Loi 107 1979 -	Planning Act 1964 1983	Municipalities Act 1970 1978	Public Health Act 1956 -	Urban Municipalities Act 1984 -	Municipal Government Act 1970 1980	— —
No. of municipalities with Bylaws pursuant to this legislation	15 (at least)	0(b) One under study	36	57	at least 8 plus approx. 40 for limited zones only	209(f)	5 (at least)	Prov'l regs. cover entire province	0	23	0(h)
% of Municipalities over 2500 pop. with M&O Bylaws (includes municipalities whose bylaws are authorized by City Charter	47%	67%	96%	76%	18%	43%	25%	SEE above	0	37% (74% of mun. of 7500 pop.)	1% (but 15% of prov'l. population covered)
MODEL BYLAW PROVIDED BY PROVINCE (a)	Yes	No	No	Yes(d)	No(e)	No (g) longer	No	—	No	No	—

(a) In addition, certain provinces, P.E.I., Quebec and Manitoba, have provincial regulations which closely resemble M&O bylaws.

(b) The new enabling legislation puts on a more solid legal footing previous bylaws of certain communities whose legal standing had previously been considered questionable.

(c) Certain subsections of the enabling legislation refer to residential properties only; other sections refer to properties more generally.

(d) The N.B. model bylaw is somewhat stronger than the others, in that municipalities electing to adopt a bylaw differing from the model mus obtain provincial approval.

(e) While Quebec does not now have a model M&O bylaw, the minimum housing requirements applicable to all residential building proposed in th Green Paper, "Se loger au Québec", are proposed to be issued as a model set of municipal regulations once consultations on their specifi content have been carried out.

(f) Five Ontario cities have M&O bylaws enacted pursuant to Private Bills.

(g) Up until about 1976, the Province did distribute a set of guidelines for preparation of a property maintenance and occupancy bylaw, but with a caveat that individual communities might wish to make modifications to suit local circumstances. Today, however, with so many M& bylaws having been adopted by Ontario communities, the Ministry of Municipal Affairs and Housing prefers to recommend that communities considering such a bylaw study bylaws from several other communities in the Province, rather than be guided by a single model bylaw.

(h) Several municipalities (in addition to Vancouver) enacted M&O bylaws in connection with RRAP/NIP requirements for M&O standards, but due to the absence of enabling legislation, they would risk being declared ultra vires if brought to court.

In attempting to assess the degree to which Canada is covered by M&O bylaws, the methods used in this table perhaps result in giving an understated view, because it counts the number and percentage of communities without taking their population into account (except to delineate the lower limit of the universe where percentage of communities is assessed). Thus, to take one of the more extreme examples, only 1% of B.C. communities have fully legal M&O bylaws. But that community is Vancouver, which represents 15% of the province's population - not a high percentage, to be sure, but better than 1%.

Table II, thus, presents a different perspective. Here, the core cities, and their 1984 population, of the 23 largest metropolitan areas in Canada are shown. There are 26 cities in this list, some metropolitan areas having two core - which is to say older - cities, from which the balance of the metropolitan area has grown outwards. Of these 26 cities, totalling 8 026 787 pop., only four - Chicoutimi, Regina, Saskatoon and Victoria - lack M&O bylaws. Seen from this perspective, 94% of the population living in the core cities of the country's 23 largest metropolitain areas live in communities with M&O bylaws: 7.6M out of 8.0M people.

Were Regina and Saskatoon to proceed to adopt the bylaws they are presently considering, now that they have the enabling legislation, the percentage of core city population covered by M&O bylaws would increase still further to over 98%: 7.9M out of 8.0M people!

This rather optimistic perspective must be balanced, however, by a recognition that many Canadian communities have enacted M&O bylaws but fail to apply them. The exact degree to which that is the situation requires further investigation. Furthermore, despite the presence now of suitable enabling legislation in all but one province, what seems to be lacking is evidence of planned application by most provinces of their enabling legislation, to the point of not simply empowering municipalities to enact M&O bylaws, but encouraging them both to adopt and to administer them, as well. Quebec's recent Green Paper, "Se loger au Québec," which suggests that that province may be looking to a more systematic application of housing regulations, may be an indicator that some change from this laissez-faire posture may be in the wind.

The findings of this report regarding the variety of enabling legislation, provincial activities, and provincial attitudes, as well, suggest that, should CMHC wish to take a more active role in encouraging municipalities to develop housing maintenance strategies, its posture and activities would have to vary from province to province.

TABLE II

PRESENCE OF M&O BYLAWS IN CORE CITIES OF THE 23 LARGEST METROPOLITAN AREAS

METROPOLITAN AREA	1984 Municipal Population	M&O Bylaw In Force
Calgary, Alta.	619 814	yes
Chicoutimi-Jonquière, Qué.	50 460/60 000	no/yes
Edmonton, Alta.	560 085	yes
Halifax, N.S.	114 594	yes
Hamilton, Ont.	308 102	yes
Kitchener, Ont.	141 438	yes
London, Ont.	266 319	yes
Montréal, Qué.	1 005 000	yes
Oshawa, Ont.	118 845	yes
Ottawa-Hull, Ont. Qué.	303 144/55 100	yes/yes
Québec, Qué.	163 800	yes
Regina, Sask.	162 613	no
St. Catharines-Niagara, Ont.	123 644/70 563	yes/yes
St. John's, Nfld.	83 770	yes
Saint John, N.B.	80 521	yes
Saskatoon, Sask.	154 210	no
Sudbury, Ont.	91 388	yes
Thunder Bay, Ont.	111 498	yes
Toronto, Ont.	2 140 347	yes
Vancouver, B.C.	414 281	yes
Victoria, B.C.	64 379	no
Windsor, Ont.	192 546	yes
Winnipeg, Man.	560 326	yes
TOTAL CORE CITIES	8 026 787	

To illustrate, a number of officials from different provinces stated that while it is reasonable for CMHC to expect, when it is investing in a province through a program such as RRAP, that maintenance and occupancy bylaws and controls be in place, the specifics of such bylaws should be left in the provincial/municipal sphere. This was the most frequently-heard provincial comment, yet an official from the province (B.C.) that fails to permit municipalities to adopt such bylaws suggested his province might challenge any such posture on the part of CMHC.

Officials in some other provinces suggested that CMHC could play a useful role by providing a model M&O bylaw, one variant on this theme being that this could be done as a new chapter to the National Building Code. Yet senior officials from other provinces felt that circumstances and enabling legislation vary so much from province to province that CMHC should avoid trying to impose a national standard.

Officials from several provinces thought CMHC could be a useful resource on the administration of M&O bylaws and on the encouragement of broader housing maintenance strategies, by virtue of its national vantage point, but several qualified this by saying that the advice should be filtered through the appropriate provincial agency.

A summary of the findings in each province, ranging from east to west, follows:

NEWFOUNDLAND

Newfoundland's enabling legislation empowers municipalities to enact property maintenance and occupancy bylaws that cover all properties. When a municipality indicates it would like to adopt an M&O bylaw, the Department of Municipal Affairs sends it a model bylaw, thus providing a certain uniformity among the municipalities having such bylaws. Provincial approval is required.

Although the province does not impose barriers, little pressure or encouragement is exerted on municipalities. However, at least 16 Newfoundland communities have M&O bylaws.

The provincial Fire Commissioner's Office plays a major role in training local fire officials to make fire safety inspections of residential properties. The Department of Labour and Manpower deals with electrical inspections.

PRINCE EDWARD ISLAND

Until late 1983, except for Charlottetown and Summerside, which are empowered by their own charters to have M&O bylaws, Prince Edward Island lacked the enabling legislation necessary for M&O bylaws. However, some communities, such as Sherwood, nevertheless had such bylaws, presumably in response to CMHC NIP and RRAP requirements. These bylaws probably would not have withstood a court challenge nor been enforceable in a court of law. New enabling legislation places these questionable older bylaws on more solid ground.

This new enabling legislation, contained in the Municipalities Act and proclaimed in November 1983, gives clear authority to towns and villages to enact M&O bylaws. The Province's Planning Services Unit in the Department of Community Affairs will help a community draft a bylaw.

An active role is also played by the province through its Public Health Act. This act contains Rental Accommodation Regulations for the maintenance and occupancy of rental accommodations which are so detailed that they virtually amount to a set of provincial M&O regulations. The Health Branch of the Provincial Department of Health and Social Services, using these and other powers systematically inspected 100 structures housing welfare clients in early 1983. Four buildings were condemned outright.

The Health Branch also inspects, on a complaint basis, about 100 permanent accommodations every year.

NOVA SCOTIA

Three Nova Scotia cities - Halifax, Dartmouth and Sydney - have M&O bylaws under the authority of their own charters. In addition, enabling legislation permits both incorporated towns and rural municipalities to adopt similar bylaws. As a result, 30 out of 39 incorporated towns and three rural municipalities have M&O bylaws.

Proposed M&O bylaws must be reviewed by the legal staff of the Municipal Advisory Service of the Ministry of Municipal Affairs, which also provides sample bylaws and consultative service. This requirement has the advantage of enabling the Province to know which communities have M&O bylaws, though it does not have precise data on exactly which ones administer their bylaws actively. It is thought, however, that those involved with RRAP are the more active ones, in view of the linkage between rehabilitation and bylaw administration. Both Halifax and Dartmouth, for example, have exploited this linkage effectively.

Where there is an M&O bylaw in both a city and in the town(s) and/or the unincorporated areas of the county surrounding it, it is usually the government of the county that administers the bylaw. Innovations initially developed for the core community sometimes "spill over" into the surrounding areas, as in the case of Sydney's certificate of occupancy program. This type of administrative arrangement is significant, because it brings experienced M&O bylaw administration to the smaller jurisdictions.

NEW BRUNSWICK

New Brunswick's enabling legislation dates to 1972, prior to NIP and RRAP. The Province's action was prompted by a major concern over large, formerly one-family, houses that were being converted into apartments, many without providing separate bathrooms for each dwelling. At the time, the concern was primarily with the larger cities: Fredericton, Saint John, Moncton.

New Brunswick was also motivated, at the time it brought in its enabling legislation, by the awareness that one cannot always apply new construction standards to existing buildings. Thus, the Residential Properties Maintenance and Occupancy Code also served as what is more commonly referred to today as a renovation code.

The Province has prepared a model bylaw and code. If a community chooses to adopt the model bylaw and code as written, it is not required to notify the Province. Most communities opt for this route. If they wish to modify it, as both Fredericton and Saint John have done, provincial review is required.

Because municipalities that simply adopt the bylaw and code by reference are not required to notify the Province, it does not have an exact count of how many communities have them, but it estimates that about half of the incorporated areas do. All of the six cities have them. About 16 of the 23 towns do, as do an estimated 35 of the 85 villages.

A staff member with 16 years experience as a municipal building inspector travels from community to community for the Department of Municipal Affairs. In a low-key fashion, he suggests the adoption of an M&O bylaw, if he sees the need for one, and counsels the community on ways in which compliance may most effectively be achieved.

The Province, in counselling the adoption of an M&O bylaw, does not appear to be put off by a community's small size. One provincial official stated that he believes M&O bylaws are suitable for communities with populations as small as 1000. A number of the smaller communities find it is not cost-effective to hire a building inspector, however.

New Brunswick also plays an important role in maintenance of existing properties through its Rentalsman's Offices which handle complaints about property condition from both landlords and tenants. While the emphasis is on serving as a catalyst to get landlords and tenants to resolve their own disputes, the Province is empowered to correct violations directly. Its compliance powers include both rent withholding and evictions. From March 1983 to April 1984, it received almost 3000 tenant complaints and more than 1500 landlord complaints.

QUEBEC

As of the end of 1984, only about 10 Quebec communities were known to have city-wide M&O bylaws, and about 40 others were reported to have housing codes in limited areas. However, clear enabling legislation is now in place and both the Province and several municipalities were actively considering improvement to their M&O bylaws as this report was being written.

While both Montreal and Quebec City have city charters giving them the power to enact M&O bylaws, enabling legislation for the Province as a whole was not enacted until 1979. This was done through the law establishing the "Régie du Logement" (Quebec's rent control legislation) which in turn, amended the Towns and Cities Act and the Municipal Code with virtually identical language.

The Province has, in addition to enabling legislation for M&O bylaws, a host of other laws and regulations (dating as far back as 1866!) regarding the condition of existing buildings. Some of these overlap with municipal regulations. By far the most important of these are the Regulations Respecting Safety in Public Buildings. These regulations cover apartment blocks of more than two stories and eight dwellings and are administered directly by the Directorate-General of Inspections (DGI), which is a unit of the Ministry of Housing and Consumer Protection.

The "Régie du logement" has its own regulation concerning the condition of rental dwellings under its jurisdiction. It is empowered to adopt minimum requirements of habitability and to impose civil sanctions, rent reductions and rent withholding. Thus, it can order an evaluation of the condition of a dwelling and can ultimately declare a dwelling unfit for habitation.

The volume of activity under these powers is not great, however. What has in fact occurred is that, since the most frequent complaints are in the larger municipalities with M&O bylaws, the cases are referred to municipal authorities. The principal impact of these "Régie du logement" regulations has been to increase the municipal workload under the M&O bylaw.

The 1984 Quebec Green Paper

In November 1984, the Ministry of Housing and Consumer Protection issued a Green Paper* entitled "Se Loger au Québec: une analyse de la réalité; un appel à l'imagination" (Housing Oneself in Quebec: an Analysis of the Present Reality; an Appeal to the Imagination).

One of the basic tenets of the paper is that the Province is not in a position to solve all the housing problems by itself; it sees the need for increased participation by municipalities and for other actors in the housing field.

The report states that a dwelling not conforming to minimum standards should not be rented nor, in extreme cases, should owner-occupants be permitted to remain in occupancy, particularly if there are fire hazards.

It goes on to address the multiplicity of scattered provincial building regulations, and it presents "possible scenarios for intervention":

> Existing residential buildings of more than two stories or eight dwellings would come under a new code which would regroup in a single document the minimum requirements with which buildings covered by the code must conform.

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* A Green Paper is a discussion paper, while a White Paper is a statement of governmental policy.

In addition, minimum housing requirements for all residential buildings should be put in place.

Two options are recommended:

1. Retain the power of municipalities to adopt standards similar or additional to those contained in current building construction and safety regulations, and negotiate with each agreements relative to the administration of provincial codes and the promotion of minimum standards.

2. Proceed with a legislative reassignment of responsibilities, if the municipalities agree. Thus, municipalities would renounce their power to develop and adopt standards, and would find themselves entrusted with the application of the provincial construction and building safety codes.

The report does not explicitly state how the minimum housing requirements applicable to all dwellings would be handled, but it now appears they will be developed as model standards for municipal adoption.

A new Building Law, fulfilling the first of the above scenarios, has already been enacted and consultations are now to take place on the regulations stemming from the new law, as well as on the minimum housing requirements applicable to all residential dwellings. It appears that Quebec is moving into a position that is increasingly on the "leading edge" as far as maintenance of the existing stock is concerned.

ONTARIO

Ontario has been, and continues to be, the most active province with respect to property maintenance and occupancy bylaws. Over 200 Ontario communities have enacted such bylaws. Historically, M&O bylaws were created through Private Bills in the provincial legislature for about six of the larger cities, including Toronto, whose maintenance bylaws date back to 1936.

In 1958 Ontario, with the help of a grant from CMHC, embarked on a study of approaches to housing conservation that were already being embraced by other centres throughout Canada and the U.S. The study found that an abundance of controls and regulations dealing with fire safety, health, building, plumbing and electrical systems were no substitute for a comprehensive set of regulations whose purpose would ultimately be housing conservation - in short, M&O bylaws. This study culminated in the landmark report, "A Better Place to Live," which led to the enactment, in 1964, of Ontario's first enabling legislation for M&O bylaws, contained in the Planning Act.

This was during the Urban Renewal years, and the Province "continually stressed the need for municipalities to pass minimum standards bylaws both as a means of improving existing property and as a preventative measure which could alleviate to a large extent the need for public renewal action in the future."

Eight years later, the act was amended to enable the bylaws to cover all types of property. The 1970 report entitled "The Maintenance of Property - A Program for Ontario", written by Matthew B.M. Lawson, provided the impetus to the amendment. The Lawson report also strongly recommended that M&O bylaws only be administered in the context of a broader property conservation strategy.

The Province continues to encourage municipalities to adopt and administer M&O bylaws in a number of ways:

1. As a prerequisite for certain provincial programs:
   - M&O bylaws were required for municipalities participating in urban renewal, and M&O standards were required for communities wishing to participate in the Ontario Home Renewal Program (OHRP).
   - Currently, full-fledged M&O bylaws are required to make a community eligible to participate in the Ontario Neighbourhood Improvement Program (ONIP) and its Commercial Area Improvement Program (CAIP).
2. By use of provincial staff, principally a Coordinator, Property Standards, who in turn trains all of the Community Renewal Branch's field staff to counsel municipalities regarding M&O bylaws and their administration.
3. By sponsoring conferences and workshops on M&O bylaws and their administration.
4. By providing financial support to the Ontario Assocition of Property Standards Officers (OAPSO), which itself, through its training initiatives, has had a major impact on upgrading the state of the art in Ontario.
5. By providing training through the Municipal Inspectors' Training and Educational Committee (MITEC), which has representation from a broad range of associations representing building-related inspectors and bylaw enforcement officers.

The very degree to which the Province of Ontario has been involved in building regulation has led to a number of complexities, overlaps and conflicts among the multiplicity of its building-related regulations, and constitute problems not only for property standards officers, but for those administering building codes, as well as for those responsible for all the other regulations.

One particular problem area relates to the potential for conflict between the Fire Marshal's Act, on the one hand, and the Building Code Act and municipal M&O bylaws, on the other. There appears to be language in the Fire Marshal's Act which preempts the other two types of regulation in matters related to fire safety.

These conflicts and overlaps are being addressed by the Province through special studies and the establishment of a Steering Committee on Regulatory Reform, but there are some differences of opinion regarding the question of whether all overlaps should be avoided.

MANITOBA

While the vast majority of M&O bylaw activity in Manitoba takes place in Winnipeg, under the authority of the City Charter, the Province has had, since 1970, legislation enabling municipalities to adopt M&O bylaws, and other provincial legislation making possible municipal inspection of buildings dates back to the mid-1950's.

Winnipeg's first major venture into this area begain with 1956 regulations stemming from the Manitoba Public Health Act, which "established a province-wide set of standards regarding sanitary and health conditions to provide a very basic housing code for all inhabited premises occupied by rental tenants." Later, in 1971, minimum standards of maintenance and occupancy were enacted under the powers contained in the City of Winnipeg charter.

In Winnipeg today, both the City's own M&O bylaw and the provincial health regulations are used. In some areas, City Health Department staff administer the latter; in other areas, provincial officials do this work. Some of the most interesting M&O bylaw inspections in Canada are being carried out in Winnipeg's Core Area. These involve team inspections by a housing inspector and a social worker.

Although municipalities elsewhere in the Province which adopt M&O bylaws are not required to notify the Province when they do so, it is known that all four of the communities (in addition to Winnipeg) using urban RRAP also have M&O bylaws, and at least one of these (Portage la Prairie) is known to administer the bylaw effectively.

SASKATCHEWAN

While Saskatchewan has had enabling legislation for M&O bylaws, under the Saskatchewan Housing Corporation Act, since 1973, this legislation has two serious drawbacks, but it has just been superceded, in late 1984, by new legislation contained in a revised Urban Municipalities Act.

One of the problems contained in the 1973 enabling legislation was that it did not make it clear whether bylaws enacted pursuant to it were retroactive. Without this feature, an M&O bylaw is of little value and cannot be enforced. The other limitation was that it effectively limited M&O bylaws to NIP areas.

It is most often the larger communities that are the first municipalities to perceive the need for M&O bylaws. As the need for such a bylaw, free of the limitation of the 1973 legislation, emerged in Regina and Saskatoon, they were not free to do what so many other larger municipalities have done: adopt an M&O bylaw under the authority of their own charter. For the city charters of both these cities had been repealed in 1908!

This meant, of course, that these cities had to make representations to the Province to enact suitable enabling legislation (which of course would apply province-wide). This process, beginning in 1978 with representations from community associations in Regina demanding an M&O bylaw that "would be diligently enforced" led, in 1981, to a formal petition by the Regina Council to the Minister of Urban Affairs, seeking suitable enabling legislation.

The new enabling legislation, passed in 1984 and contained in a revised Urban Municipalities Act, is not limited to residential properties, but it only permits maintenance, and not occupancy, to be covered in the bylaw. It was feared that, because many of the cases of overcrowding in Regina involve Native people, an occupancy provision might be seen as anti-Native. The omission is not regarded as serious due to certain provisions already contained in the Public Health Act.

While Regina officials had already drafted a proposed maintenance bylaw early in 1985, there has been an extensive consultation and study process, and thus passage of the actual bylaw is not expected until late 1985 or early 1986. Saskatoon is actively studying bylaws that are already in place in other communities. Other Saskatchewan communities have indicated they will be watching events in Regina and Saskatoon before they proceed with similar bylaws.

Meanwhile, it is likely that the 1973 enabling legislation, being outdated, will be repealed.

The Province's role in M&O bylaw administration can be expected to be of quite low profile. It appears to be the Province's position to provide the enabling legislation the municipalities feel they need, but to pretty well leave them to their own devices after that, fearing to seem unduly paternalistic. Provincial officials noted that this enabling legislation is permissive, and there appears to be no thought of the Province exhorting municipalities to utilize it.

ALBERTA

Alberta's story, as regards M&O bylaw enabling legislation, is straightforward. Since 1970, the Province has had enabling legislation, contained in the Municipal Government Act, which covers both occupancy and maintenance standards. All "existing property" is covered by the legislation.

The legislation is not elaborate, but it appears to give municipalities what they need. Before a bylaw can be enforced in any given case, formal notice must be served, not only on the owner, but on "all persons shown by the records of the land titles office to have an interest in the property and on the occupant". (underscoring added)

The requirement that notice be served on those with an interest in the property is not unlike the requirement in Ontario's enabling legislation which several municipalities have reported often serves to get mortgagees to press property owners to repair the property. The provision that the occupant be notified, as well as the owner, is, to the best of the author's knowledge, unique.

As of the fall of 1984, over 30 Alberta municipalities were reported to have M&O bylaws. Alberta Municipal Affairs does not maintain records, but the Alberta Urban Municipalities Association (AUMA) had requested that their members provide them with copies of their bylaws. The AUMA also will provide the legal opinions necessary when communities adopt bylaws, as many municipalities lack legal counsel of their own. Not only that - and this is important - it has been encouraging members to adopt M&O bylaws. While somewhat over two-thirds of these municipalities are communities with RRAP, and therefore required to have M&O standards, it is significant that nine of them are not RRAP communities, but have nevertheless seen fit to adopt M&O bylaws.

Training offered by the Province is more oriented towards inspectors of new construction rather than of existing buildings, but the City of Calgary Law Department offers both an eight-day and a one-day course on enforcement and investigation skills, the longer of these being available to enforcement officials from across Canada.

There is also a two-year certification program in Building Construction and Civil Construction, conducted by the Northern Alberta Institute of Technology. Yet another training program is targetted at homeowners, and is designed to help them help themselves to cut heating costs. It is offered jointly by the Alberta Department of Housing and Alberta Energy and Natural Resources. It includes advice about weather stripping, caulking, vapour barriers; also sources of financing and how to hire a contractor.

BRITISH COLUMBIA

British Columbia is the only province where municipalities are still not free to adopt M&O bylaws.

Vancouver has the powers necessary to enact an M&O bylaw under its City Charter. The other B.C. municipalities responded to CMHC's M&O standards requirements in four ways - sometimes a combination of more than one of them:

Some B.C. communities adopted a bylaw, made inspections, noted violations, and sought to achieve compliance by persuasion, avoiding the courts lest the bylaw be declared ultra vires. Others invoked those sections of the Municipal Act that deal with existing properties - those having to do with demolition or repair of buildings contravening an existing bylaw or deemed by Council to be unsafe, of the sections dealing with nuisances and with untidy and unsightly premises, with dangerous erections, etc. What resulted was not exactly an M&O bylaw in the sense that these are understood today, because (except for the untidy and unsightly premises component) the resulting bylaw failed to enable the municipality, as a rule, to deal with a deteriorating property before it go so dilapidated that repair was no longer feasible. But such a bylaw did have the advantage, at least, of pulling together such provisions as there were in the Municipal Act that deal with existing structures. Still other municipalities adopted bylaws that were only applicable to owners benefitting from RRAP. This model was put forward, in late 1977, by the then Minister of Municipal Affairs. Such a bylaw, of course, would do nothing to persuade a recalcitrant owner to repair his/her property.

Finally, it appears that a few municipalities simply went ahead and adopted M&O bylaws in response to the CMHC requirements without a full awareness of their lack of formal power to adopt and enforce them.

In the absence of any real M&O bylaws (except, of course, in Vancouver), there are two other provincial activities that do have some positive impact on the condition of the existing housing stock, or at least on a portion of it.

One of these is the use of the clauses in the B.C. Residential Tenancy Act dealing with condition of the property and with provision of necessary services. While the rent control feature of this Act has been scaled down sharply by the present provincial government, this feature has been retained.

The Office of the Rentalsman operated during the period of 1974 to 30 June 1984, and during this period repairs and services complaints represented between 5% and 10% of that agency's workload. In 1979 there were 2562 files of this nature opened, while in 1983 this figure was down to 1425. In approximately 90% of these cases the issue was resolved after initial correspondence to the parties advising them of their rights and responsibilities under the Act.

The Office of the Rentalsman was supplanted, in mid-1984, by the Residential Tenancy Branch (within the Ministry of Consumer and Corporate Affairs) which is empowered to appoint an arbitrator for landlord-tenant disputes. In the first nine months of operation of the new system, only 115 files relating to condition of property or provision of necessary services were received. This reduced volume is thought to be caused by a number of factors such as the $30 filing fee now required and the higher vacancy rate throughout the Province.

The other important provincial activity is under the Province's Fire Services Act. This it carries out by declaring local fire chiefs - or even members of the RCMP, in remote areas - Local Assistants to the Fire Commissioner (LAFC's). Despite the network of LAFC's, the Fire Services Act's major enforcement powers do not extend to private dwelling houses. Some municipalities nevertheless make inspections of single-family dwellings. Of course, this activity can only address fire safety deficiencies.

In conclusion, the B.C. situation is clearly the most difficult one as respects M&O bylaws.

One view is that B.C. is "the last frontier" and therefore resists anything that might smack of being a regulatory bureaucracy. One person with whom I talked suggested that even if the Province had enabling legislation it might take steps to repeal it. It appears that municipalities have not exerted pressure for enabling legislation.

On the positive side, however, one of the people interviewed said that if it could be demonstrated that a wholly voluntary approach only resulted in a limited percentage of dwellings in a given target neighbourhood being rehabilitated, the Province might consider enacting suitable enabling legislation.

Indeed, another resource person suggested providing a model of suitable - and not too threatening - enabling legislation, while several others suggested that Ottawa should provide, as a companion to or a component of the National Building Code, a chapter which would constitute a model M&O bylaw. Finally, a B.C. municipal official said that he has seen changes over the past decade in the administration of building standards as people become more aware of their rights and begin to expect more of government - and as more municipalities come to realize that declining property values can impact on their tax bases.

CONCLUSION

This study, coupled with the 1982 study of M&O bylaw administration, has demonstrated that the potential for closer linkage between the administration of M&O bylaws on the one hand, and of rehabilitation financing programs, on the other, is far higher than it was a dozen years ago when the framers of the NIP and RRAP legislation recognized that the judicious use of M&O bylaws could result not only in better take-up of RRAP in areas where it was important that some critical mass of dwellings be rehabilitated if neighbourhood decline was to be reversed, but also in better retention of the gains achieved through rehabilitation. Stated in another fashion, they saw both M&O bylaw administration and financing assistance through RRAP as components of a municipal housing conservation strategy.

Unfortunately, the provincial legislative infrastructure was uneven at that time, although the CMHC requirements did lead to a number of improvements. Moreover, municipal experience in Canada with M&O bylaws was quite limited in the early 1970's.

Perhaps, too, the exploitation of this linkage may have been less important at that time than it is now. What with the presence of NIP, there was added incentive to rehabilitate, and the pressure on the RRAP budget was much less than it is now. Then, too, in those early days of the RRAP program it did not seem as important to think about making sure that the rehabilitation accomplished was lasting as it is today, when an increasing number of questions about second RRAP loans are asked.

Thus while RRAP's General Program Objective speaks not only of repair and improvement, but also of the promotion of subsequent maintenance, and while one of its specific objectives is "to promote an acceptable level of maintenance of the existing housing stock," the only tangible manifestation of this objective has been the provision in the National Housing Act for the adoption of "occupancy and building mantenance standards satisfactory to the Corporation."

On the evidence of this study there now exists a great opportunity for achieving the program objective through means other than simply offering subsidy, although that will continue to be necessary to meet the needs of lowerincome households. But where it is simply a matter of incentive, or lack of technical knowledge, or lack of financing sources, subsidy does not necessarily have to be brought into play. What seems to be required are comprehensive municipal housing conservation strategies, of which rehabilitation financing assistance and M&O bylaw administration are but two - albeit two most important - components, along with the provision of encouragement and advice to property owners.

The present study, and its 1982 forerunner, have now established a data base from which we can go forward to determine the next steps by which M&O bylaw administration can best be fitted into such a comprehensive maintenance strategy. Such an examination will also help shape CMHC's role in facilitating housing maintenance strategies suitable to the late 1980's.

What is required now is a quantitative and qualitative analysis of what actually takes place:

- How many of the 400-odd municipalities that have M&O bylaws actually administer them?
  - To what extent is the presence of an active program related to the nature of the housing stock, e.g., predominance of rental housing; rooming houses; large, formerly single-family houses, divided into apartments?
  - What motivates municipal elected officials to support/oppose M&O bylaw programs? To what extent do they understand the linkage between the deterioration of the housing stock and of the municipal tax base?
  - What resources do municipalities devote to M&O bylaw administration?
- What are the municipal inspection strategies:
  - Inspect only on complaint basis?
  - Inspections by geographical zones?
  - Inspections when occupancy changes?
- What are the various compliance techniques?
  - Which techniques are suited to which sets of circumstances?
  - How effective are the various compliance techniques under various sets of circumstances?
  - How effective is the bylaw:
    - ° in getting property repaired originally?
    - ° in maintaining it in a state of repair?
    - ° in dealing with tenants as well as owners?
  - What are the attitudes, role and participation of the judiciary?
  - What is the role of property owners, both homeowners and landlords? What is the role of tenants, of community groups?

- Are there negative side effects, and if so, how can they be avoided?

- What difference has M&O bylaw administration made in achieving the RRAP objectives of bringing about thorough rehabilitation in the first instance, and in promoting subsequent maintenance?

  - A comparative study involving selected pairs of neighbourhoods similar in all respects except for the presence or absence of active M&O bylaws administration could reveal answers to this and the following questions.

  - Has linking M&O bylaw administration to rehabilitation resulted in more thoroughly rehabilitated, and hence more viable, neighbourhoods?

  - Has it resulted in more repair work being done with less funds?

  - Has it resulted in more lasting rehabilitation?

- How does the M&O bylaw administration process relate to a broader housing conservation strategy? What are the elements of such strategies? What communities have developed them?

Once these issues have been examined, one can then examine:

- Ways in which M&O programs should evolve;

- Ways in which jurisdictions (provinces as well as municipalities) not now active with M&O bylaws can be so motivated;

- Federal/Provincial potential roles as facilitators.

We have moved from an era of relative financial plenty to one of restraint. This means that we can no longer afford the luxury of resolving the problem of substandard housing by simply throwing money at it, although there is no question but that financial aid will always have to be an element of the approach.

But we have failed to explore to anywhere near their full potential the other possible elements of a comprehensive housing maintenance strategy, including, most notably, imaginative, consumer-oriented, M&O bylaw programs.

Fortunately, today's climate and today's circumstances are far more propitious to undertaking such an approach than they were a dozen years ago.

THE PROVINCES AND PROPERTY MAINTENANCE BYLAWS

A REVIEW OF PROVINCIAL ENABLING LEGISLATION, POLICIES AND ACTIVITIES IN SUPPORT OF MUNICIPAL MAINTENANCE AND OCCUPANCY BYLAWS

INTRODUCTION

When the Residential Rehabilitation Assistance Program was enacted in 1973 the National Housing Act was amended in order to bring property maintenance and occupancy standards[1] (referred to as M&O Standards in this report) into play with respect to this new program thrust. The reasons for this were two-fold:

- to help accomplish the degree of rehabilitation in a given neighbourhood necessary to reverse a decline in the area; and
- to help assure that the gains secured in a neighbourhood through a concerted rehabilitation effort were maintained in the years following implementation.

While CMHC prepared guidelines for assuring the adequacy of bylaws adopted in satisfaction of the RRAP requirement some years ago, the Corporation has, in general, maintained a rather low profile with respect to these requirements, it having been felt that, since such bylaws were new for many, if not most, Canadian communities, they needed some time to evolve.

More recently, however, there has been concern expressed, both by CMHC's senior management and by municipal officials, over the general lack of progress that seems to have been made. At the same time, considerable advances in the administration of these bylaws have been observed in some provinces and municipalities, to the degree that it appears that there is a more receptive climate towards their use, if administered in a sensitive fashion. Thus, CMHC is seeking improved ways to promote effective municipal actions which would encourage, and where necessary, require adequate upkeep of properties.

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[1] Section 34.1(3) (the RRAP section of the NHA) stated that: "No loan may be made under this section unless the province or the municipality in which the family housing unit, housing accommodation or building is located has adopted occupancy and building maintenance standards satisfactory to the Corporation." (This section was later amended to include reserves.) Note that the reference is to "standards" rather than to full-fledged "bylaws". See p. 6. Likewise, Section 27.2(a)(v) (the NIP section) made the cost of "developing occupancy and building maintenance standards that will apply to the neighbourhood and developing systems to enforce such standards" eligible for 50% federal contributions.

This is true, even though, in 1982, a new subsection 31.4(3)(b) was added which offered, as an option to the requirement cited in Footnoote 1, the alternative that: "evidence has been provided to the Corporation's satisfaction that occupancy and building maintenance in the case of that unit, accommodation or building will conform to standards satisfactory to the Corporation." This amendment was made because it was felt not to be practical to require M&O bylaws in the context of rural RRAP. The Urban RRAP Guidelines and Procedures Manual (6.3.1.2/9, para. #3) still requires, as a matter of CMHC policy, that urban RRAP loans may not be made unless the municipality "has adopted maintenance and occupancy standards satisfactory to the Corporation, preferably in the form of a municipal bylaw." It goes on to urge that such bylaws be administered as part of "a broader housing maintenance strategy of which M&O bylaw enforcement is only the final element..."

As a first step towards promoting effective municipal initiative towards maintenance of existing housing, CMHC's Residential Improvement Division published, in 1982, "A Profile of Successful Maintenance and Occupancy Experience in Canada," which stemmed from an awareness that, despite ineffective or non-existent property maintenance and occupancy bylaw administration in many Canadian municipalities, there were also a number of communities across the country that were administering such bylaws effectively. The report both identified common features of such programs and individual features.

As well, it identified the major factors serving to prevent or discourage municipalities from undertaking effective maintenance and occupancy bylaw administration. One of the principal inhibiting factors identified was the lack of encouragement and support for such activity on the part of senior levels of government. This related in part to CMHC itself, which has not played an active role regarding the M&O standards requirement and lacked expertise in the specific area of administration of M&O bylaws. As to the provinces, it found that the enabling legislation and policies varied widely from province to province, ranging from active encouragement of M&O bylaws to active discouragement and, in several provinces, lack of enabling legislation[2] under which municipalities could adopt such bylaws.

It was beyond the scope of that report to deal extensively with varying provincial enabling legislation and policies, however. Yet it became evident that, if CMHC were to play any kind of role in encouraging M&O bylaw administration, or in encouraging municipalities to develop comprehensive strategies for maintaining their existing housing stock, of which M&O bylaws were a component, it would have to become more knowledgeable about the degree to which municipalities in each province are empowered to enact these bylaws, about what each province was doing to encourage or discourage their administration, and about the attitudes of provincial officials regarding CMHC involvement in this area.

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[2] Even in provinces that are, or have until recently been, without general enabling legislation, in most, but not all, provinces, larger cities were empowered to adopt M&O bylaws under the terms of their individual charters. Examples include Vancouver, Montreal, Quebec City, Charlottetown and Summerside. Larger cities in provinces with suitable enabling legislation often draw the authorization for their M&O bylaws from their own charters, thus Toronto and St. John's, as examples. Saskatchewan was the exception to this, the charters of both Regina and Saskatoon having been repealed back in 1908. Note that, today, B.C. is the only province lacking enabling legislation for M&O bylaws.

This, then, was the background for the present report. As the study unfolded, it became clear that a range of policies and activities, beyond M&O bylaws, as such, should be examined in order to present as equitable a picture of what given provinces were doing to maintain their existing housing stock. Thus, for example, much has been done to improve the condition of buildings in some communities through "apartment upgrading bylaws", which are fire prevention bylaws, and do not cover all the other aspects of a building's condition as does an M&O bylaw. For another example, provincial administration of the "duty to repair" and "arbitration of disputes" provisions of residential tenancy acts is as direct an intervention into the improvement of housing conditions as enabling and encouraging municipalities to adopt and administer M&O bylaws. To fail to include these provincial activities would be to show an incomplete picture of the breadth of activities in this domain for certain provinces. The study deliberately avoided an examination of the roles of the various provinces in the financing of rehabilitation, however, as this would have enlarged the scope of the study beyond manageable proportions.

DEFINITIONS [3]

Before moving into the Summary of Findings, because of widespread confusion concerning the different kinds of codes, standards and bylaws that affect buildings it seems advisable to provide some definitions so that the exact area of focus of this study will be more clearly understood.

* Building Codes - These apply to building construction - whether commercial, industrial or residential. In Canada the National Building Code has been adopted by most provinces. Building Codes represent the most advanced thinking on all aspects of public safety in buildings.

  Developed primarily as new construction codes, they have nevertheless been applied to rehabilitation/renovation work in existing buildings, often with serious economic impact, frequently to the point of making renovation infeasible.

  Dangerous and/or derelict buildings provisions are sometimes contained in a building code. To the degree of this coverage, there can be a certain overlap between a building code and an M&O bylaw.

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[3] In preparing these definitions, I have drawn liberally on those contained in Nenno, Mary K. and Paul C. Brophy, "Housing and Local Government", International City Management Association, 1982, pp. 48-49, but with modifications based on my own experience and to adapt the definitions to the Canadian context.

- Rehabilitation or Renovation Codes and Guidelines - In an effort to overcome the problem of fitting new construction standards to old buildings, some jurisdictions have developed or are developing renovation codes that seek to combine the key life safety features of a new construction code with a more realistic view of the condition of older housing stock and of the feasibility of applying rigid and detailed construction requirements to existing buildings. This is done either by requiring that a less stringent test be met or, more frequently at least in Canada, by providing other means of achieving the same life safety protection.

  In Canada, several municipalities (among then Vancouver and Winnipeg) have developed such standards. Ontario, at the time of writing this report, has recently proclaimed such a code and has incorporated it into the Ontario Building Code. At least one other province (B.C.) is also known to be addressing the matter. At the national level, the matter is being addressed by the National Research Council with CMHC's active involvement, through a subcommittee of the Associate Committee of the National Building Code.

  It should be understood that normally renovation codes are not retroactive. That is to say, they would only come into play when a property owner applies for a permit to renovate or convert an existing structure. They cannot be used to require an owner of a property which has been found, through inspection, to be deficient, to make necessary repairs.

- Property Maintenance and Occupancy Bylaws - variously known as "Minimum Standards Ordinances", "Housing Codes" (U.S.), "Maintenance and Occupancy" or " Occupancy and Maintenance" (M&O or O&M) bylaws, "Property Standards Bylaws" or "Codes du logement" (Que.) are the focus of this paper.

  The distinguishing feature of these codes or bylaws is that they describe, by bylaws[4], standards to which existing properties should be maintained as well as conditions of occupancy. Under today's circumstances, however, the maintenance features are generally considered more important than the occupancy features. They normally cover all aspects of the building condition: structural, sanitary, plumbing, electrical, fire safety. In some jurisdictions they apply to residential properties only; in others to all properties.

  They are retroactive. That is to say that the fact that a condition existed, prior to the enactment of the bylaw or before the given inspection took place does not exempt the property from the force of the bylaw. They normally apply to the entire municipality, and are effective whether or not the owner has sought a given type of financial assistance or a building permit.

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[4] While the words "code" and "bylaw" are often used interchangeably, New Brunswick's model M&O ordinance terms the enforcement component the "bylaw" and the standards component, which is attached as an appendix, the "code". This distinction is, perhaps, more technically correct.

Some municipalities have adopted maintenance and occupancy standards, rather than full-fledged bylaws. These standards carry no legal force, and are therefore only advisory. These municipalities have chosen to give these standards no legal force; they are only advisory unless they are being applied to a building receiving financial subsidy. They may, as well, only apply to dwellings receiving assistance under a given financing program. CMHC's Standards for the Rehabilitation of Residential Buildings: Residential Rehabilitation Assistance Program (NHA 5132) are examples of this type. They prescribe what standards must be met as a condition of receiving the assistance, as well as what types of work are eligible for assistance under the program. Nevertheless, some communities, hesitant to enact an M&O bylaw, have found some degree of compliance to such an advisory bylaw possible. As noted in Footnote 1, an "occupancy and building maintenance standard" is all that is required by Section 34.1(3) of the NHA in connection with RRAP, and it is all that has been required by the Province of Ontario as a condition of its Ontario Home Repair Program (OHRP), through it has required fullfledged M&O bylaws as a condition of other programs. A municipality in Canada may only adopt a bylaw if there is suitable, provincial legislation. The examination of such provincial enabling legislation is a principal area of inquiry of this report.

The carrying out of repairs to correct violations of the M&O bylaw, if they are sufficiently major to require a building permit, would normally require that the standards of the local building code (or renovation code, if one existed) be adhered to.

Historically, the genesis of minimum housing standards was through local health departments, this being the primary concern when such standards were first developed in the US in the early 20th century. In Canada today, however, these bylaws are most frequently administered by building, planning or community development departments. In the US, housing codes (eg., M&O bylaws) in several major cities (eg., Pittsburgh; Birmingham, Alabama) are still administered by municipal or country health departments, and in the UK public health officials play a key role in inspections of existing housing.

In the US, housing codes were not numerous until after the mid-fifties, when enacting and administring such codes became a condition of federal aid for housing and urban renewal. In Canada, few cities had M&O bylaws until having such bylaws became a condition of both federal aid for RRAP and NIP and of Provincial (Ontario) aid for urban renewal and then OHRP and other programs.

Occasionally Property Maintenance and Occupancy Bylaws are combined with Renovation Codes/Guidelines.

* Specialized Regulations or Bylaws - Prior to the adoption of M&O bylaws, many communities had - and still have - other regulations or bylaws covering some or all of the components of an M&O bylaw: a sanitary code to

cover occupancy and plumbing, an electrical code, a fire safety code, etc. These codes or regulations - sometimes provincial, sometimes municipal - did and still do govern the way in which rehabilitation of the respective building components is carried out as well as often applying retroactively. Disadvantages of codes being limited only to specialized building subsystems are that:

- separate inspections by separate inspectors are required; and
- property owners who have previously brought their buildings into compliance with, say, a fire safety ordinance, are dismayed when, later, a more comprehensive M&O bylaw is adopted and they are again made subject to municipal requirements for other components of the building.

Some of these specialized regulations are provincial rather than municipal and are administered as such.

* Dangerous or Derelict Building and/or Unsightly Premises Bylaws

These bylaws are not unlike M&O bylaws, although they do not cover occupancy conditions and, perhaps more important, dangerous buildings bylaws can only be brought to bear after a building has reached a very serious level of deterioration, often to the point where it would be infeasible to attempt anything but demolition. But, like M&O bylaws, they are retroactive. They are often invoked after a serious fire, or else after a building is determined to have deteriorated to the point of losing, say, half its value.

Historically, enabling legislation for such bylaws antedates that for M&O bylaws. Thus, provinces that have not yet enacted enabling legislation for M&O bylaws do have the enabling legislation necessary for Dangerous Buildings and for Unsightly Premises bylaws. (These may be combined in a single bylaw or used separately). Even where enabling legislation for M&O bylaws exists, Dangerous Building bylaws are utilized because their compliance provisions are likely to be more stringent. Similarly, Unsightly Premises bylaws are often used in conjunction with M&O bylaws because their scope may cover conditions outside of the building more broadly.

While it can be argued that dangerous/derelict building bylaws address health and safety hazards just as M&O bylaws do, what they fail to do is to provide municipal officials with a device for effective maintenance of the existing housing stock or of neighbourhoods showing signs of decline, since they normally cannot be brought to bear until the dwelling - and sometimes the neighbourhood - is past, or almost past, redemption.

As with some of the other specialized regulations mentioned in the preceeding section, dangerous/derelict building and/or nuisance provisions can be in the form of a provincial regulation rather than a municipal bylaw. The administration of the regulation may nevertheless be by the municipality. This is the case in Newfoundland, for an example.

SUMMARY OF FINDINGS

The period during which this study was conducted (1983 and the first half of 1984) has been characterized by:

- an increasing awareness of the importance of maintaining the existing housing stock;
- a far from static situation with respect to M&O bylaws;
- the enactment, in two of the three provinces lacking it, of enabling legislation permitting municipalities to adopt M&O bylaws.[5]

This leaves only one province, B.C., lacking general enabling legislation for M&O bylaws, but even there, Vancouver is empowered, through its city charter to have such bylaws. Several other communities in this province have enacted M&O bylaws, even though there is no clear provincial legislative authority to do so. Municipal officials in such communities have to take care not to bring formal legal action based on these bylaws, however, for fear of having the bylaws declared ultra vires (which means "exceeding their legal powers").

What has been the impact of this enabling legislation (coupled, of course, with CMHC and Ontario requirements for M&O standards as a precondition for RRAP and certain other programs) in terms of the number of municipalities throughout the country that have M&O bylaws, and in terms of the percentage of the Canadian population that is protected by such bylaws? We have attempted to show this in two ways, each giving a somewhat different perspective.

Table I shows the scope of enabling legislation for M&O bylaws in the various provinces, as well as a brief citation of the enabling legislation and its dates of enactment and most recent amendment (greater detail is found in the body of the report). The table also shows those provinces with model bylaws. More germane to the point at hand, it shows the number of municipalities with bylaws enacted pursuant to this legislation (thus not including municipalities whose bylaws stem from their city charters), as well as the percentage of municipalities of over 2500 population which have M&O bylaws, in this case including those with bylaws pursuant to municipal charters as well as those whose bylaws are authorized by general enabling legislation. More precise data on just which communities have M&O bylaws can be found in Appendix "E". (One interesting fact that was revealed by making this analysis was the surprising number of municipalities with populations under 2500 which have such bylaws. There are, for example, 66 such municipalities in Ontario, and it is only one province where this situation is present.)

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[5] Prince Edward Island enacted a new Municipalities Act in late 1983 and a new Urban Municipality Act was proclaimed on 1 November 1984, in Saskatchewan. The Saskatchewan Act contains a section on Maintenance of Private Land and Building, but does not empower municipalities to enact occupancy bylaws. SEE section on Saskatchewan, below, for detail.

TABLE I:

CURRENT PROVINCIAL ENABLING LEGISLATION FOR PROPERTY MAINTENANCE AND OCCUPANCY BYLAWS
(exclusive of authority granted in individual City Charters)

	Nfld.	P.E.I.	N.S.	N.B.	Quebec	Ontario	Manitoba		Sask.	Alberta	B.C.
SCOPE											
Maintenance	x	x	x	x	x	x	x	x	x	x	
Occupancy	x	x	x	x	x	x	x	x		x	
Residential only			x		x						
All properties	x	x	(c)			x	x	x	x	x	
LEGISLATIVE CITATION(S), including date of adoption and most recent	Urban & Rural Planning Act 1970 1982	Munici-palities Act 1983 -	Towns Act 1967 1980	Munici-palities Act 1972 1973	Loi sur les Cités et Villes as amended by Loi 107 1979 -	Planning Act 1964 1983	Munici-palities Act 1970 1978	Public Health Act 1956 -	Urban Munici-palities Act 1984 -	Municipal Government Act 1970 1980	— —
No. of municipalities with Bylaws pursuant to this legislation	15 (at least)	0(b) One under study	36	57	at least 8 plus approx. 40 for limited zones only	209(f)	5 (at least)	Prov'l regs. cover entire province	0	23	0(h
% of Municipalities over 2500 pop. with M&O Bylaws (includes municipalities whose bylaws are authorized by City Charter	47%	67%	96%	76%	18%	43%	25%	SEE above	0	37% (74% of mun. of 7500 pop.)	1% (but 15 of prov populat covered
MODEL BYLAW PROVIDED BY PROVINCE (a)	Yes	No	No	Yes(d)	No(e)	No (g) longer	No	—	No	No	—

(a) In addition, certain provinces, P.E.I., Quebec and Manitoba, have provincial regulations which closely resemble M&O bylaws.

(b) The new enabling legislation puts on a more solid legal footing previous bylaws of certain communities whose legal standing had previously been considered questionable.

(c) Certain subsections of the enabling legislation refer to residential properties only; other sections refer to properties more genera

(d) The N.B. model bylaw is somewhat stronger than the others, in that municipalities electing to adopt a bylaw differing from the model obtain provincial approval.

(e) While Quebec does not now have a model M&O bylaw, the minimum housing requirements applicable to all residential building proposed i Green Paper, "Se loger au Québec", are proposed to be issued as a model set of municipal regulations once consultations on their spe content have been carried out.

(f) Five Ontario cities have M&O bylaws enacted pursuant to Private Bills.

(g) Up until about 1976, the Province did distribute a set of guidelines for preparation of a property maintenance and occupancy bylaw, with a caveat that individual communities might wish to make modifications to suit local circumstances. Today, however, with so man bylaws having been adopted by Ontario communities, the Ministry of Municipal Affairs and Housing prefers to recommend that communiti considering such a bylaw study bylaws from several other communities in the Province, rather than be guided by a single model bylaw.

(h) Several municipalities (in addition to Vancouver) enacted M&O bylaws in connection with RRAP/NIP requirements for M&O standards, but to the absence of enabling legislation, they would risk being declared ultra vires if brought to court.

In attempting to assess the degree to which Canada is covered by M&O bylaws, the methods used in this table perhaps result in giving an understated view, because it counts the number and percentage of communities without taking their population into account (except to delineate the lower limit of the universe where percentage of communities is assessed). Thus, to take one of the more extreme examples, only 1% of B.C. communities have fully legal M&O bylaws. But that community is Vancouver, which represents 15% of the province's population - not a high percentage, to be sure, but better than 1%.

Table II, thus, presents a different perspective. Here, the core cities, and their 1984 population, of the 23 largest metropolitan areas in Canada are shown. There are 26 cities in this list, some metropolitan areas having two core - which is to say older - cities, from which the balance of the metropolitan area has grown outwards. Of these 26 cities, totalling 8 026 787 pop., only four - Chicoutimi, Regina, Saskatoon and Victoria - lack M&O

TABLE II

PRESENCE OF M&O BYLAWS IN CORE CITIES OF THE 23 LARGEST METROPOLITAN AREAS

METROPOLITAN AREA	1984 Municipal Population	M&O Bylaw In Force
Calgary, Alta.	619 814	yes
Chicoutimi-Jonquière, Qué.	50 460/60 000	no/yes
Edmonton, Alta.	560 085	yes
Halifax, N.S.	114 594	yes
Hamilton, Ont.	308 102	yes
Kitchener, Ont.	141 438	yes
London, Ont.	266 319	yes
Montréal, Qué.	1 005 000	yes
Oshawa, Ont.	118 845	yes
Ottawa-Hull, Ont. Qué.	303 144/55 100	yes/yes
Québec, Qué.	163 800	yes
Regina, Sask.	162 613	no
St. Catharines-Niagara, Ont.	123 644/70 563	yes/yes
St. John's, Nfld.	83 770	yes
Saint John, N.B.	80 521	yes
Saskatoon, Sask.	154 210	no
Sudbury, Ont.	91 388	yes
Thunder Bay, Ont.	111 498	yes
Toronto, Ont.	2 140 347	yes
Vancouver, B.C.	414 281	yes
Victoria, B.C.	64 379	no
Windsor, Ont.	192 546	yes
Winnipeg, Man.	560 326	yes
TOTAL CORE CITIES	8 026 787	

bylaws. Seen from this perspective, 94% of the population living in the core cities of the country's 23 largest metropolitain areas live in communities with M&O bylaws: 7.6M out of 8.0M people.

Were Regina and Saskatoon to proceed to adopt the bylaws they are presently considering, now that they have the enabling legislation, the percentage of core city population covered by M&O bylaws would increase still further to over 98%: 7.9M out of 8.0M people!

This rather optimistic perspective must be balanced, however, by a recognition that many Canadian communities have enacted M&O bylaws but fail to apply them. The exact degree to which that is the situation requires further investigation. Furthermore, despite the presence now of suitable enabling legislation in all but one province, what seems to be lacking is evidence of planned application by most provinces of their enabling legislation, to the point of not simply empowering municipalities to enact M&O bylaws, but encouraging them both to adopt and to administer them, as well. Quebec's recent Green Paper, "Se loger au Québec," which suggests that that province may be looking to a more systematic application of housing regulations, may be an indicator that some change from this laissez-faire posture may be in the wind.

The findings of this report regarding the variety of enabling legislation, provincial activities, and provincial attitudes, as well, suggest that, should CMHC wish to take a more active role in encouraging municipalities to develop housing maintenance strategies, its posture and activities would have to vary from province to province.

To illustrate, a number of officials from different provinces stated that while it is reasonable for CMHC to expect, when it is investing in a province through a program such as RRAP, that maintenance and occupancy bylaws and controls be in place, the specifics of such bylaws should be left in the provincial/municipal sphere. This was the most frequently-heard provincial comment, yet an official from the province (B.C.) that fails to permit municipalities to adopt such bylaws suggested his province might challenge any such posture on the part of CMHC.

Officials in some other provinces suggested that CMHC could play a useful role by providing a model M&O bylaw, one variant on this theme being that this could be done as a new chapter to the National Building Code. Yet senior officials from other provinces felt that circumstances and enabling legislation vary so much from province to province that CMHC should avoid trying to impose a national standard.

Officials from several provinces thought CMHC could be a useful resource on the administration of M&O bylaws and on the encouragement of broader housing maintenance strategies, by virtue of its national vantage point, but several qualified this by saying that the advice should be filtered through the appropriate provincial agency.

Discussion of specific provinces, ranging from east to west, follows:

NEWFOUNDLAND

Enabling Legislation

Newfoundland has two[6] pieces of enabling legislation empowering municipalities to enact property maintenance and occupancy bylaws. Which one is used in a given instance depends on whether or not the municipality has a Municipal Plan in effect. In either case, municipalities are empowered to enact bylaws covering all properties, not just housing. Approval by the Lieutenant-Governor in Council is required for those municipalities lacking a municipal plan, which appears to be most of them, whereas municipalities with such a plan only require Ministerial approval. The requirement for such approvals does not appear to be a handicap in any way. Where a municipality indicates it would like to adopt an M&O bylaw, the Department of Municipal Affairs sends it a model bylaw,[7] thus providing a certain uniformity among the municipalities having such bylaws.[8]

Where a municipality has a Municipal Plan, it is Section 37(1)(c) of the Urban and Rural Planning Act that applies. Where the municipality lacks a Municipal Plan, the language under Section 71(2) of the same act empowers it to enact an M&O bylaw.

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[6] These are Sections 37(1)(c) and 71(2) of the Urban and Rural Planning Act. The text of these two sections are contained in Appendix "A". In addition to these two pieces of current legislation, Sections 11 and 12 of Chapter 160, the Housing Act, contain rather detailed provisions for prescribing and enforcing standard for the maintenance and occupancy of property in urban renewal areas. While this legislation is still on the books, the demise of the urban renewal program makes it no longer relevant.

[7] See Appendix "C" for copy of model bylaw.

[8] In addition to the City of St. John's, which has both a Commercial Maintenance Bylaw and a Maintenance of Housing Bylaw under powers given it under the St. John's Act, the following municipalities are among those with M&O Bylaws:

Berry Head
Bishop Falls
Burin
Corner Brook
Gambo
Gander
Grand Falls
Happy Valley Goose Bay
Kippens
Labrador City
Pasadena
St. John's Metro
Wedgewood Park
Stephenville
Windsor

The model M&O bylaw referred to above dates from urban renewal days, and the Province drew on CMHC guidelines as well as on the City of Ottawa's property maintenance standards, but adapted these somewhat to the needs of Corner Brook. (Corner Brook is the Province's second largest community and was, like St. John's, involved in the Urban Renewal program. St. John's M&O bylaw, however, was enacted under the authority of its own charter, rather than under the legislation cited above.[9]) The version of the model Occupancy and Maintenance Regulations shown at Appendix "C" is that used for municipalities with Municipal Plans, and thus contains language making it applicable "throughout the Municipal Planning Area of the Town of .... as defined by the Minister in accordance with Section 12 of the Urban and Rural Planning Act." This section states that such an area may extend beyond the municipality,[10] and I have been informed that it is quite normal to extend all sorts of controls beyond the Municipal boundaries, including M&O bylaws. A slightly different version of the model regulations, referring only to the municipal boundaries, is furnished to municipalities lacking a municipal plan.

Section 1.5 of the model regulations refers to "the appropriate appeal board". There are, in fact, four regional appeal boards in the Province, and it is to them that the reference is made.

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[9] See Appendix "D" for discussion of St. John's M&O Bylaws program.

[10] Section 12 of the Urban and Rural Planning Act reads as follows:

The Minister may, upon the receipt of an application made in accordance with Section II, define the area to be comprised in the Municipal Plan.

When defining an area in accordance with subsection 1 the Minister may include in the area so defined any land outside of the municipality concerned which in the opinion of the Minister is necessary to enable the Council

(a) to exercise control over any development relating to the municipality that may occur beyond its boundaries;

(b) to control watersheds for the purposes of municipal water supply, whether within, or without its boundaries; and

(c) to control the amenities of the municipality.

Municipal View of M&O Bylaws

There appears to be little pressure from the Province exerted on municipalities to force them to adopt such bylaws. Indeed, many Newfoundland municipalities, even those that have M&O bylaws, are too small[11] to have a Building Department or even a Building Inspector. In such communities, the bylaw is usually administered by the town manager or town clerk, with the municipal council being the enforcement agency.

Not only is this factor of small municipal size significant as related both to the dearth of Municipal Plans and to the lack of pressure on municipalities to adopt and administer M&O bylaws, but so is the fact that, with the largest proportion of owner-occupied to rental housing in the country, virtually the only rental housing stock is in the larger centres.

One commentator said that the attitude of municipalities regarding the problem of deteriorating buildings is pretty much live and let live, stemming from an awareness that most homeowners have extremely limited funds. Further, he commented that the Newfoundland and Labrador Housing Corporation's focus is on social housing, and that it is not involved in bylaw administration of any sort.

Other Provincial Enabling Legislation and Regulations

Even municipalities without M&O bylaws are not powerless to deal with some of the conditions normally covered by M&O bylaws. Sections 207 through 212 of the Municipalities Act[12] deals with Building Controls. Section 207(d) provides that "No person shall within a town ... occupy a building that has been vacant for a period of six months or more ... except under and in accordance with a permit in writing from the council". Section 210(2) empowers council to order demolition and removal of dilapidated or unfit building, or one which constitute a public nuisance, Section 211 empowers council to correct the situation itself and recover the cost, if the owner has failed to respond to its order, and Section 212 establishes an appeals process.

Since these are sections of a provincial act, no local bylaws are required and the coverage is universal throughout the Province.

One of the Province of Newfoundland's strongest initiatives regarding regulation of the existing housing stock is that exercised by the Office of the Fire Commissioner, which has had an increasing impact within the past three years and illustrates the important role that such an agency - although not involved on M&O bylaws as such - can have on the administration of such bylaws and on the maintenance of the existing housing stock. This is the case even though under the fire regulations, single and two-family structures are under municipal jurisdiction rather than under that of the Fire Commissioner's Office. Largely, the impact is through inspections by local fire officials, who receive training and guidance from the Fire Commissioner's Office. Furthermore, the Office of Fire Commissioner may be called in on a consultative basis with respect to one and two-family structures.

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[11] Most are under 2 000 population and only 40 have populations above 4 000.

[12] See Appendix "B".

Three codes were cited to me by the Office of the Fire Commissioner as being most important in that agency's work.

They are:

- the National Building Code;
- the National Fire Code;
- the Life Safety Code (1981) - (a U.S. code which Newfoundland has adopted and which is, in the view of the Office of the Fire Commissioner, the most suitable of the three for the upgrading of existing buildings.)

Most fire departments in Newfoundland are voluntary ones, and are arms of their municipal councils. Thus, they do not operate under the Office of the Fire Commissioner, but they do send in copies of all inspection reports and, in special cases, can call in one of the two provincial fire inspectors; municipalities may refer special problems to the Office of the Fire Commissioner. Local fire departments normally carry out house-to-house inspections, though this is not required of them. An inspector from the Fire Commissioner's office, as distinct from a local fire official, would only go to a single-family house if there were a special hazard present (eg., use of oxygen, etc.).

The Fire Commissioner's Office, moreover, has a mobile training team which spends two or three days in a given community and trains volunteers not only in firefighting but in how to conduct fire safety inspections, as well.

Still further, the Fire Commissioner's Office provides an inspection form to local Fire Departments. Section 210(2) of the Provincial Municipalities Act not only gives municipalities enforcement powers, but the responsibility to enforce, as well. (See reference to this section re: nuisances on p. 13.) One observer commented to us that the wording of this subsection is such that action must be limited to severely dilapidated buildings.

There are about 80 "Local Assistants to the Fire Commissioner". They are generally local fire chiefs. But the title is not automatically bestowed on all local fire chiefs. Rather, they are appointed by the Minister of Justice on the advice of the Office of the Fire Commissioner, so there is a control over quality. Local Assistants have the authority to close a building under the Provincial Fire Prevention Act, but such actions must be taken in consultation with the Fire Commissioner's Office. Local Assistants are unsalaried, but are reimbursed for expenses. In addition to the approximately 80 Local Assistants referred to above, every member of the RCMP in the Province and of the Constabulary Force of Newfoundland is a Local Assistant Fire Commissioner.

At the time of my visit (late September 1983), the Fire Commissioner's Office was awaiting formal action approving the creation of a Provincial (Fire) Training Academy, to be established at Gander. Since then, money has been budgetted, but the school is not yet in operation. Various companies have contributed over $60 000 worth of training aids.

The first priority will be to provide training for local fire instructors, the emphasis being not only on fire fighting, but on fire prevention as well. During the second year of operation, local fire chiefs would be offered training. The curriculum will include bylaw administration and training in how to train inspectors - including M&O bylaw inspectors with respect to their fire prevention responsibilities. Implementation of the Academy, then, has the potential of making a significant contribution to the preservation of the existing housing stock.

Once put in place, it is expected that the new academy would pay for itself, in terms of requirements for further provincial funding, what with grants from Employment and Immigration, etc. The cost of putting the academy into place is estimated at approximately $1.3 M.

I enquired of the Department of Municipal Affairs concerning the role of any other provincial officials or agencies that might have responsibilities for existing housing, and learned that this happens only if these officials or agencies are specifically called upon and that this would normally only take place at quite a late stage.

The Department of Labour and Manpower, however, deals with electrical inspections. If a house is disconnected from electrical service, there must be an electrical inspection by the Department of Labour and Manpower, or by a person they have certified, before the power is re-connected[13]. (Normally, electricians are so certified.) The province itself only has three electrical inspectors plus a senior inspector and a Director. It is the Newfoundland and Labrador Hydro Commission which established the electrical requirements, however.

Provincial View of CMHC Involvement

One element of the terms of reference of this study was to ascertain prevailing provincial attitudes with regard its any of the various supporting roles CMHC might play in promoting municipal initiatives in the area of property maintenance. Officials of the Department of Municipal Affairs felt that it was appropriate that CMHC should wish property maintenance controls to be in place if it were providing financing to help repair dwellings, but they felt that the matter of the specifics of such controls was within the provincial/ municipal sphere.

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[13] See also Section 1.6 "Occupancy" of the Model Occupancy and Maintenance Regulations (Appendix "C" of this report), which states that "all existing vacant dwellings and structures and any dwelling or structure which becomes unoccupied for any length of time for any reason will require an occupancy permit issued by Council before the proposed occupancy occurs".

They suggested that useful actions by CMHC could include publications designed to show property owners what to look for in a house that may need attention, how to maintain a dwelling in good repair, how to prevent fires, what not to do when renovating a home, etc.[14]

An official of Municipal Affairs asked whether CMHC had representation on the Associate Committee for the National Building Code dealing with renovation guidelines, and was pleased to learn that Mr. Robert Anderson serves as chairperson of this committee, as he felt this was an area where CMHC should be involved.

He added that be deplored that Part IX of the NBC ("Housing and Small Buildings") no longer was published separately, as he felt that the entire code tended to frighten off officials from smaller communities.

Summary

Newfoundland's enabling legislation empowers municipalities to enact property maintenance and occupancy bylaws that cover all properties. When a municipality indicates it would like to adopt an M&O bylaw, the Department of Municipal Affairs sends it a model bylaw, thus providing a certain uniformity among the municipalities having such bylaws. Provincial approval is required.

Although the province does not impose barriers, little pressure or encouragement is exerted on municipalities, many of which are reported to have a live and let live attitude about the problem of deteriorating buildings. However, 16 or more Newfoundland communities at least have M&O bylaws. Furthermore, the provincial Fire Commissioner's Office plays a major role in training local fire officials to make fire safety inspections of residential properties.

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[14] Examples of CMHC publications of the sort suggested are:

- The Sensible Rehabilitation of Older Houses - NHA 5204
- New Life for an Old Home - NHA 5628
- Condensation in the Home: Where, Why and What to Do About It - NHA 5319
- Site Improvement of Older Housing - NHA 5602
- New Housing in Existing Neighbourhood - NHA 5569
- Heating with Wood-Safely - NHA 5178

PRINCE EDWARD ISLAND

P.E.I. Adopts New Enabling Legislation

Until late 1983, except for Charlottetown[15] and Summerside, which are empowered by their own charters to have M&O bylaws, Prince Edward Island lacked the enabling legislation necessary to enable municipalities to have M&O bylaws. Some 15 other communities nevertheless had such bylaws, presumably in response to CMHC requirements in connection with NIP and RRAP, and, indeed, several had M&O bylaws for their NIP areas only, but all of this was in spite of no appropriate enabling legislation and it is the opinion of provincial officials that they would not have withstood a court challenge nor been enforceable in a court of law. New enabling legislation places these questionable older bylaws on a more solid footing. It is thought that amending any such older bylaws to reference the new enabling legislation would remove any question of their legal standing.

At the time of my visit in early June, 1983, there were separate pieces of legislation to govern the affairs of communities of different sizes: a Towns Act, a Village Service Act, and a Community Improvement Act (relating to the smallest category of communities). A number of the larger municipalities apparently saw a need for effective property maintenance bylaws, and consequently the provisions of these three separate acts have been replaced by provisions in a new Municipalities Act, which was under consideration at the time of my visit, enacted later that month and proclaimed in November 1983.

This is not to say that the Province was inactive up to then regarding the existing housing stock, for it carried out, itself, extensive inspections of rental housing under the Rental Accommodation Regulations of the Public Health Act (on the order of 100 structures a year). As well, the Chief Health Officer (a Provincial officer) has been empowered to deal with nuisances.[16]

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[15] See Appendix "D" for discussion of Charlottetown's M&O bylaw program.

[16] Section 6 of Chapter 42 of the Public Health Act reads as follows:

> Anything which, in the opinion of the Minister, is directly or potentially injurious to public health and offensive to the general community shall be deemed a nuisance. Nuisance defined
>
> Upon his own initiative or on receipt of a complaint of the existence of a nuisance, the Chief Health Officer shall cause the nuisance to be investigated and take such steps as he considers necessary to abate or remedy the same. Complaint investigation

In addition, the Rental Accommodation Regulations of the Landlord and Tenant Act provide a measure of protection to tenants of accommodations covered by the Act, as well as spelling out tenant responsibilities towards maintenance of the dwelling.[17]

Provisions of the New Enabling Legislation

Most important for the purposes of this study, however, are the provisions of the new Municipalities Act which now give clear authority to towns and villages to enact M&O bylaws. Municipalities for which a community improvement committee has been established (smaller still than villages; they can be areas of anything over 25 residents) have a more limited range of powers, not including the enactment of M&O bylaws, but as can be seen, we are talking of extremely small jurisductions. Even they, however, under the new Act are given the opportunity to opt for increased powers.

A general power is described, under Part XI, Bylaws, Section 55. Of further interest are Sections 56, which deals with penalties and enforcement, as well as the power to use injunctions, and 59 which provides that residents must be given an opportunity to express their opinion before any bylaw affecting "the general use and enjoyment of residential property" is adopted.

Municipalities of all types, including the smallest - the community improvement committee municipalities - are empowered by Section 62(1) to make bylaws governing unsightly properties and dilapidated structures.[18]

Under this new enabling legislation, municipalities will not be required to seek provincial approval before enacting an M&O bylaw. The Province has requested municipalities to inform them when such a bylaw has been adopted. At the time of writing (July 1984) no such notifications had been received, although at least one municipality was known to be at work preparing an M&O bylaws and others are expected to be, as well, since it had been known that the municipalities supported the provisions enabling there to adopt bylaws, and the Federation of PEI Municipalities had stated that it welcomed the new provisions. It simply seems too early to measure the impact of the new legislation.

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[17] The Rental Accommodation Regulations are set forth, in question and answer format, in a booklet published by the Rentalsman's Office entitled "Landlord and Tenants: A Mutual Understanding". For the text of this booklet, as well as for the complete Regulations, See Appendix "B".

[18] For text of these sections of the Municipalities Act, SEE Appendix "A".

Provincial Services to Municipalities

Still further, the Province provides planning services, without charge to municipalities. Thus, as municipalities indicate an interest in developing an M&O bylaw, the Planning Services Unit of the Department of Community and Cultural Affairs will work with them. The work that this Unit has done in Southport-Bunbury to this end will, in the view of the Province, be of value to other communities wishing to adopt M&O bylaws.

Other Provincial Regulations

In addition to the provisions relating to nuisances, discussed above, the Public Health Act, Section 14, Buildings,[19] contains rather explicit provisions regarding unfit buildings that would cover such items as sewage, UFFI or asbestos.

Furthermore, Section 15 of the same Act empowers public health officers to enter buildings without warrants. In the case of occupied dwellings, however, if the owner refuses admission, written authority of the Chief Health Officer (provincial) is required.[20] It was made clear to me by an official of the Provincial Department of Health and Social Services (Health Branch) that a public health officer would have to have an extremely good reason for wanting admission under such circumstances. Such an inspector would never seek entry under these provisions "without having done his homework."

Chapter P-29, Rental Accommodation Regulations, of the Public Health Act,[21] contains such detailed provisions for the maintenance and occupancy of rental accommodations that, except for one or two topics such as fire safety (where local or provincial fire officials would be contacted), it virtually amounts to a set of provincial M&O regulations.

Using the powers granted it under these regulations, as well as nuisance provisions under Section 6 of the Public Health Act (discussed above) the Health Branch of the Provincial Department of Health and Social Services had just completed, in the Spring of 1983, a survey of 100 structures housing welfare clients, of which four had to be condemned outright. This was the first time such comprehensive inspections had been undertaken. The project was facilitated by the fact that Provincial health and social services had recently been amalgamated. The result of course, is significant M&O bylaw-type work being carried out by the Province itself under its own regulations.

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[19] SEE Appendix "B".

[20] SEE Appendix "B".

[21] The Rental Accommodation Regulations are reproduced in their entirety in Appendix "B".

The Division of Community Hygiene of the Health Branch carries out a considerable number of residential inspections stemming from complaints - about 100 permanent accommodations over the previous year. This is in addition to the inspections of temporary accommodations they do under the Innkeepers' Act. An example of the type of complaint they investigate was one of carbon monoxide in some waterfront apartments located over underground garages. (They found the complaint unfounded.)

In meeting with the Environmental Branch of the Department of Community and Cultural Affairs, my attention was brought to the Environmental Protection Act Governing Sewage Disposal, which they administer. They occasionally receive complaints (in the denser subdivisions) of septic tanks that are not built or not functioning properly, with resultant pollution of a neighbour's property. In such instances, they refer the matter to the Medical Officer of Health in the Provincial Department of Health and Social Service, since a notice signed by a medical officer appears to carry more weight.

For fire protection, I was told that the Province has opted to use the "National Fire Code" - not the Canadian model, but the US one, promulgated by the National Fire Protection Association (NFPA) in Boston. There seemed to be some feeling that the Canadian code was written by engineers, the British model is extremely technical, while the US model is more understandable. This code is administered by the Provincial Fire Marshal, but he can appoint assistants who can be municipal people, as he has done in Charlottetown.

Provincial View of CMHC Involvement

What is P.E.I.'s attitude about federal involvement with M&O bylaws and their administration? In discussions with officials of the P.E.I. Housing Corporation and the Department of Community and Cultural Affairs, it was made clear that any possible imposition of outside standards would be seen as an unacceptable approach. These officials felt that where financial assistance is being provided through a program, it is reasonable to expect that standards related to the program's objectives should be required, but program-related standards and requirements should be developed in consultation with all interested parties. They stated, further, that the Province, as an interested party and resource, is frequently involved, not in setting standards for smaller communities, but in helping them develop them.

In short, provincial officials noted that the preconditions that often adversely affect the flexibility and effectiveness of programs should be minimized. Programs should match as closely as possible people's needs rather than people being expected to match the program.

These same officials added that a number of the larger municipalities appear to see the need for minimum property maintenance standards. No doubt this is related to the recent enaction of enabling legislation making possible the enactment of M&O bylaws.

One of the roles the federal government could play, they suggested, could be that of a resource, based on in a vantage point of being familiar with the national picture and on the research resources available to it.

Summary

New enabling legislation enacted in 1983 gives all towns and villages clear authority to enact M&O bylaws. Previously, only Charlottetown and Summerside had such authority, and while other municipalities had enacted M&O bylaws, the capacity of these bylaws to withstand a legal challenge was - until the enactment of the 1983 legislation - questionable.

The Planning Service Unit of the Department of Community and Cultural Affairs provides what amounts to consultant services to communities. It will help a municipality, for example, draw up a bylaw.

The Province, moreover, through the Rental Accommodation Regulations contained in its Public Health Act, has itself carried out a substantial number of inspections of rental dwellings.

NOVA SCOTIA

Municipalities in Nova Scotia are empowered to have M&O bylaws either through the individual charters of the various cities[22], through Section 221(77) of the Towns Act, and through Section 191(93), (95) and (96) of the Municipal Act.[23] All of these statutes require that bylaws made under their authority are subject to the approval of the Minister of Municipal Affairs (in fact by the staff of the Department of Municipal Affairs, which also provides sample bylaws and consultative services).

Under this enabling legislation all three cities (Dartmouth, Halifax, Sydney) have adopted M&O bylaws[24], as well as 30 out of 39 of the incorporated towns[25] and three rural municipalities: Cape Breton, Lunenburg and St. Mary's.

A senior official in the Municipal Advisory Services Division, Department of Municipal Affairs stated that the fact that all of these municipalities had enacted M&O bylaws did not mean that all of them administered them actively. Those involved with RRAP, he thought, were more likely to be the active ones, in view of the linkage between rehabilitation and bylaw administration. (Both Halifax and Dartmouth I know to have exploited this linkage effectively.)

Nevertheless, the very fact that such a large percentage of municipalities have such bylaws is, in itself, significant, not only in providing something upon which to build, but in setting an official standard, even though active enforcement may not be pursued.

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[22] Sections 148, 152, 431, 432, 435, 443, 444 and 445 of the Halifax City Charter, 1963, and Sections 151(a), 156(a), 170 and 180A of the Dartmouth City Charter.

[23] See Appendix "A" for this section and other relevant sections of the Towns Act and of the Municipal Act.

[24] For discussion of M&O bylaw programs in Dartmouth and Sydney, SEE Hale, R.L., "A Profile of Successful Maintenance and Occupancy Experience in Canada," Ottawa, July 1982, pp. 22 and 30, respectively. For a brief discussion of Halifax's program, SEE Appendix "D". All three of these cities have active programs.

[25] The 30 towns are:

Amherst
Antigonish
Bridgewater
Canso
Digby
Dominion
Glace Bay
Hantsport
Kentville
Liverpool
Lockport
Louisburg
Lunenburg
Mahone Bay
New Glasgow
New Waterford
North Sydney
Parrsboro
Pictou
Port Hawkesbury
Shelburne
Springhill
Stellarton
Sydney Mines
Trenton
Truro
Westville
Windsor
Wolfville
Yarmouth

This same official informed me that, where there is an M&O bylaw in both a city and/or town(s) and the areas of the county surrounding it, each municipal unit must have an approved bylaw and may delegate the administration of the bylaw to the joint agency. This, for example, is the case in Cape Breton, where the Cape Breton Metro Planning Commission administers the M&O bylaw both for Sydney and the surrounding communities, which includes all municipal units in the municipality of Cape Breton. Innovations initially developed for the core community sometimes "spill over" into the surrounding areas, as has Sydney's certificate of occupancy program. This type of administrative arrangement is of considerable significance, as it serves to bring experienced M&O bylaw administration even to quite small jurisdictions.

Both the Towns Act and the Municipal Act contain other sections that are relevant to M&O bylaws. Thus, both Acts contain not only penalty provisions for all bylaws, but, as well, special penalty provisions for certain specific clauses, which in the case of both acts include the M&O bylaw clauses.[26]

Section 197 of the Municipal Act permits the municipality to contest violations that have not been contested by the owner, and to recover the cost.

Section 198 of the Municipal Act, and 229 of the Towns Act ("Right of Action") describe the ways in which actions may be brought, and the powers of court, in M&O bylaw cases.

Both acts contain, as well, sections on dangerous and unsightly buildings.[27]

As noted above, a proposed municipal bylaw must be sent in to Municipal Affairs, where it is reviewed by the legal staff within the Department for recommendations to the Minister.

Nova Scotia has developed an excellent training program for building inspectors, utilizing the DACUM system, whereby the training needs of each inspector are individually diagnosed and an individualized training program developed. This program, organized through the Finance and Administration Division of the Department of Municipal Affairs, is available in New Brunswick and Prince Edward Island, as well, through the Maritime Municipal Training and Development Board. Unfortunately, it does not, as yet, have a component specifically tailored to inspectors responsible for conditions in existing buildings.

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[26] Thus, Section 228 of the Towns Act provides for a penalty of not less than $100 or more than $1 000 or imprisonment for not less than 15 days or more than three months, for each offense, with every day during which such an offense continues being deemed a fresh offense. Section 196 of the Municipal Act is virtually identical.

[27] Section 204 of Municipal Act; Section 222 of Towns Act. SEE Appendix "A".

There appear to be both rivalries and good cooperation between fire and building officials in Nova Scotia. The fire officials are said to have a strong lobby, and the Legislature has created a special committee related to fire protection services. Fire safety inspections take place in many communities. The fashion in which such inspections are effectively coordinated with M&O bylaw administration in Dartmouth has already been documented.[28] There is a system of cross-referrals in Halifax, as well.

Another area of interfacing jurisdictions regards electricity. Wherever renovations are carried out, the electrical service must be inspected by the Nova Scotia Power Corporation, except in the City of Halifax which had its own electrical inspection service.

Provincial View of CMHC Involvement

What are provincial attitudes regarding a CMHC role with respect to M&O bylaws? A senior provincial official told me that such bylaws are a municipal responsibility. It is the role of his unit of the Provincial government to provide advice to municipalities. If the Federal level can lend any expertise to the process of M&O bylaw administration, it should do so by acting in an advisory capacity to the Department of Municipal Affairs, which could then screen such advice to ascertain whether it fits municipal enabling legislation.

Summary

Nova Scotia is well equipped with the enabling legislation necessary for M&O bylaws, and a high percentage of its municipalities have enacted such bylaws, although it is thought unlikely that all of them - aside from the three cities - administer them actively.

It would appear that the services of the Municipal Advisory Services Division of the Department of Municipal Affairs, as they relate to M&O bylaws, is more closely related to enactment of suitable bylaws than to their administration. However, provincial officials indicated they would not be averse to federal advice on the process of M&O bylaw administration, provided it were directed through the Department of Municipal Affairs, so that the latter would assure that it was consisted with provincial enabling legislation. Another logical step would be to expand the training for building inspectors which Nova Scotia has pioneered under the DACUM system so that it would more explicitly meet the needs of M&O bylaw staff.

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[28] Hale, R.L., "A Profile of Successful Maintenance and Occupancy Experience in Canada," CMHC, Ottawa, July 1982, pp 22-23, 71.

NEW BRUNSWICK

New Brunswick's experience with M&O bylaws, and its enabling legislation, dates to 1972, prior to NIP and RRAP. The Province's action was prompted by a major concern over large, formerly one-family, homes that were being converted into apartments, many without providing separate bathrooms for each dwelling. At the time, the concern was primarily with the larger cities: Fredericton, Saint John, Moncton.

New Brunswick was also motivated, at the time it brought in its enabling legislation, by the awareness that one cannot always apply new construction standards to existing buildings. Thus, the Residential Properties Maintenance and Occupancy Code, I was told, served as what is more commonly referred to today as a renovation code, as well as to "govern the condition, occupancy and maintenance of residential properties," and to protect the "safety, health and welfare of occupants by requiring owners thereof to repair and maintain such property...."[29]

The basic enabling legislation for M&O bylaws in New Brunswick is Section 93(a) of the Municipalities Act with further relevant language in Section 94.[30] The exact wording of Section 93(a) is:

> "The Lieutenant-Governor in Council may by regulation approve codes that may be adopted by a municipality respecting
>
> (a) standards for maintenance and occupancy of buildings and premises."

Certain compliance techniques, however, draw on Sections 34(3)(e), 94 and 95 of the Community Planning Act. (SEE discussion of these techniques below).

The Province has prepared a model bylaw and code,[31] which it sends to interested communities. (This is one among 30 model bylaws on various topics.) If a community chooses to adopt the model bylaw and code as written, it is not required to notify the Province. Most communities opt for this route.

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[29] Section 3(a), "Scope", of N.B. Model Residential Properties Standards Bylaw. This model bylaw is contained in Appendix "C".

[30] For text of Section 94, as well as cited sections of Community Planning Act, SEE Appendix "A".

[31] It will be noted that reference is made both to the "M&O Standards for Residential Properties Bylaw" and to the "Residential Properties Maintenance and Occupancy Code," which is "Schedule A" of the former document. The bylaw covers such matters as scope, appointment of maintenance officer, duty of owner, notices and enforcement, while the code covers definitions, administration (right of entry and service of notices) and the standards themselves. SEE Appendix "C" for text of the model Bylaw and Code.

The reason that specific approval is not required where a municipality adopts the code exactly as in the model is that the entire model "Residential Properties Maintenance and Occupancy Code" was promulgated by the Lieutenant Governor-in-Council in June, 1973 (Regulation 73-71).

If, however, the municipality chooses to adapt them in some way to their own circumstances, it should first have the proposed bylaw and code reviewed by its own solicitors, and then send them into the Community Planning Branch of the Department of Municipal Affairs, which liaises directly with the community on any required fine-tuning. This is carried out by the Administrator, Community Planning. If found satisfactory, this official would then process the bylaw and code for the necessary Order-in-Council.

Fredericton is one community that opted to make changes; they added a requirement that each dwelling should have two exits. Saint John is another; they wished to spell out the duties of the maintenance officer in greater detail. The new Saint John bylaw and code is quite recent, and follows the recommendation of a special council committee.

Because municipalities that simply adopt the bylaw and code by reference are not required to notify the Province, Community Planning does not have an exact count of how many communities have them, but they estimate that about half of the incorporated areas do. All of the six cities have them. About 16 of the 23 towns do, as well, as do an estimated 35 of the 85 villages.

How did this come about? In my view, the answer lies first in the presence of this official's position, and his particular background and operating style. The position is not a desk job - at least as he interprets it. His responsibility is not just for the M&O bylaw and code, but for Building Code matters, as well. He makes it a point to travel from community to community, dropping in on the responsible individual(s), and in a low-key fashion, inquiring whether they need any help, have any particular problems perplexing them, etc.

It should be noted that, prior to joining the Province, this official had 16 years experience as a municipal building inspector. Thus, he has both ample know-how and credibility. He is careful not to force his opinions on anyone.

For the most part, the villages that have adopted the M&O bylaw and code are the larger villages - some have grown fast and are larger than some towns - which have a number of large, old, formerly one-family, houses being converted into several rental dwellings. Where the Administrator, Community Planning, has observed this situation, he has suggested to local official that adoption of this bylaw and code would help them control this situation. He also advises them, however, that there is no point in adopting them if they are not prepared to enforce them. Incidentally, a senior official in the Municipal Services Branch in the Department of Municipal Affairs, thinks M&O bylaws are suitable for all communities with populations over 1 000.

The Administrator, Community Planning, counsels municipalities on the administration, as well as on the adoption, of M&O bylaws. He stated that he did not believe in going to court except as a last resort. Occasionally, however, this has proven necessary. There are three possible routes through which a case may be brought to court should the circumstances warrant:

1. The first, and least drastic, legal remedy is through the enforcement procedures of the Residential Properties Standards Bylaw. These provide that any notice given under this bylaw and signed by a maintenance officer can be received in any court in the province and shall be *prima facie* evidence of the repairs required. A person contravening any provision of the Bylaw, whether notified or not, is liable to a summary conviction and a fine of $15; such a person who has been formally notified of the violation is subject to a fine of not less than $25 nor more than $100.

2. The second (as well as the third) enforcement option draws on powers contained in the Community Planning Act. If a house is so dilapidated that demolition is the only viable recourse, they go to Section 34(3)(e) of that Act, which falls under the general heading of "Zoning Bylaw", but which nevertheless prescribes that a zoning bylaw "require the improvement, removal or demolition of any building or structure that, in the opinion of the council, is dilapidated, dangerous or unsightly, and empower the council to improve, remove or demolish such building or structure at the expense of the owner or to acquire the parcel of land on which such building or structure is situated."

   When using this option, the Community Planning Branch recommends that the Council first gets a report from the Building Inspector and from the Fire Chief. The Building Inspector next writes the property owner, giving 30 days to repair or demolish. If there is no response, a second letter goes out, but providing only 15 days turnaround time. If there is still no response, the municipal clerk send a third letter, inviting the property owner to appear before Council to tell why he/she has not complied. Next, the Council can order the necessary repair or demolition, as the case may be.

3. The third enforcement option, of which, in fact, there are two variants, draws upon Section 94 of the same Community Planning Act (Order for Removal by Judge of Queen's Bench) or Section 95 (Summary Conviction).

   a) Section 94 provides that "the municipality, the Minister or a person designated for such purpose by the Council or the Minister" may bring anyone who has contravened "any provision of this Act or a bylaw or regulation hereunder", or any order made pursuant to the said Act, bylaw or regulation, to court, and the judge may make an order requiring corrective action.

b) Section 95 states that anyone guilty of any of these things is "guilty of an offense and is liable on summary conviction to a fine of not less that $25 and not more than $100 for each day the offense continues and in default of payment to imprisonment..."

The Province, thus, has an array of legal remedies. I was told that the way tough cases have been kept out of court was to show the recalcitrant property owner these various provisions, and then ask, "Under which of these would you prefer to tell your story to the judge?" This is the advice given municipalities, as well. Thus, when the judge appreciates that, if the case does reach him/her, he/she knows that all other possible remedies have been tried.

New Brunswick also plays a role with respect to the condition of rental housing through its Residential Tenancies Act. Under this Act, a standard lease form, covering all the provisions of the Act, is used. Even if the form itself is not used, its provisions apply as the lease form is assumed to have been used. Section 6(1) of the lease sets forth the Landlord's Obligations. Section 6(2) is an optional provision which permits certain of these responsibilities to be assumed by the tenant - but only in one- and two-family houses.[32]

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[32] 6(1) The Landlord agrees that he

(a) shall deliver the premises to the Tenant in a good state of repair and fit for habitation;
(b) shall maintain the premises in a good state of repair and fit for habitation;
(c) shall comply with all health, safety, housing and building standards, and any other legal requirements respecting the premises; and
(d) shall keep all common areas in a clean, and safe condition.

NOTE: Failure of the Landlord to perform his obligations may entitle the Tenant to have the obligations performed by a rentalsman at the Landlord's expense.

OPTIONAL PROVISION (May be used only where the premises are a single family dwelling house or are located within a two-family dwelling house)

6(2) Notwithstanding article 6(1), the Landlord and Tenant agree that the Landlord's responsibility under article 6(1)(a) ☐ , 6(1)(b) ☐ , 6(1)(c) ☐ and 6(1)(d) ☐ shall be performed by the Tenant, with the exception of repairs required as a result of reasonable wear and tear or as a result of damage by fire, water, tempest or other act of God.

(check appropriate box or boxes)

The Rentalsman's Office does not go out looking for violations; action must be triggered by a tenant's complaint. The tenant, in turn, must provide the Rentalsman's Office with evidence that he/she has given written notice of the deficiency to the landlord first. A copy of this notice has to be brought to the Rentalsman's Office.

Given this documentation, the Rentalsman's Office can take action provided the landlord has not responded to the tenant's written complaint in a reasonable time span. If it is convinced the landlord is not going to respond, it will send him a compliance order. Following that, if there is still no response, it can go in and remedy the situation. It has, for example, provided fuel oil. It is empowered to withhold rent to pay for repairs.

It was noted that, when people come to the Rentalsman's Office with a complaint, it is usually for a rather drastic situation, since the protection against retaliatory eviction contained in the Act is only for a three-month period. Moreover, if the property is improved, permitted rent may be higher. On the brighter side, however, I was told that quite often when the Office telephones a landlord, that is all that is required to get the situation corrected.

The Residential Tenancies Act also contains a tenant-responsibility section.[33] The same compliance procedures apply, but in addition the Rentalsman's Office can require a tenant to vacate.

Despite the limitations noted, there has been considerable activity since the Act came into force in 1983, in the areas of both landlord's and tenant's obligations, as shown by the checked items in Table III (p. 30). The checked items in Table IV show the compliance activities in these respects. It would seem that while the volume of tenant complaints (2958) is almost twice the number of landlord complaints (1542), when it comes to compliance action the Rentalsman's Offices have found it necessary to use a big stick much more frequently in the case of tenants than in the case of landlords. One reason

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[33] 7 The Tenant agrees that he

(a) shall be responsible for ordinary cleanliness of the premises;
(b) shall repair within a reasonable time after its occurrence any damage to the premises caused by the Tenant's own wilful or negligent conduct or by such conduct of persons who are permitted on the premises by the tenant; and
(c) shall conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not cause a disturbance or nuisance.

NOTE: Failure of the Tenant to perform his obligations may render the Tenant liable to compensate the Landlord and may result in the tenancy being terminated.

MONTHLY STATISTICAL SUMMARY
RÉSUMÉ MENSUEL DES STATISTIQUES

OFFICE OF CHIEF RENTALSMAN
RESIDENTIAL TENANCIES ACT
BUREAU DU MÉDIATEUR EN CHEF DES LOYERS
LOI SUR LA LOCATION DE LOCAUX D'HABITATION

45 3611 (12/82)

Provincial Offices
April 1, 1983 to March 31, 1984

TABLE / TABLEAU I

No. of Complaints / Inquiries from 45-3615 Nombre de plaintes / renseignements de la formule 45-3615	Current Courant	Cumulative Cumulatif
By mail Par lettre	597	7,476
By telephone Par téléphone	1,169	16,646
By visit Par visites	423	8,993
TOTAL	2,189	33,115

TABLE / TABLEAU II

Files from 34 3614 (12/82) De la formule 45-3614	Current Courant	Cumulative Cumulatif
No. of files open Dossiers ouverts	40	443
No. of files closed Dossiers classes	28	393
No. of files carried forward Dossiers rapportés		50

TABLE / TABLEAU III

Complaints Plaintes	Current Courant	Cumulative Cumulatif
Other Autre	151	1,529
General information Information générale	201	2,668
Request documents Demande de documents	94	1,982
* Landlord's obligations Obligations du propriétaire	210	2,958
* Tenant's obligations Obligations du locataire	115	1,542
* Tenant's failure to comply (not rent) Non respect par le locataire (pas du loyer)	36	469
* Landlord's failure to comply Non-respect par le propriétaire	35	460
Security deposit Dépôt de garantie	795	10,854
Standard form lease Formule - type de bail	115	1,763
Tenant abandons Le locataire quitte	18	318
Assignment lease Cession du bail	32	307
Chattels Biens personnels	16	237
Entry by landlord Accès par le propriétaire	20	378
Changing locks Changement de la serrure	6	98
Failure to pay rent Non-paiement du loyer	170	2,462
Eviction Expulsion	23	399
Termination Résiliation	332	3,864
NT, NL & NR SM	129 16	1,710 221
Rent Review	423	5,608
TOTAL	2,937	39, 827

TABLE / TABLEAU IV

Decision / Action Décision / Mesure	Current Courant	Cumulative Cumulatif
* No. of compliance orders issued Ordres de conformité émis	19	252
* No. of notices to quit Ordres de congé	102	944
* No. of eviction orders Ordres d'expulsion	6	87
* No. of repairs ordered Ordres de réparations	2	25
* No. of payments requested for repairs Demandes de paiements pour réparations	6	52
* TOTAL	135	1,360

TABLE / TABLEAU V

Receipts Recettes	Number / Nombre		Amount / Montant	
	Cur. Cour.	Cum. Cum.	Cur. Cour.	Cum. Cum.
Security Deposits Dépôts de garantie	520	4653	91325.	1310639.68
Rental payment from tenants Paiements de loyer par le locataire	11	29	1900.	14892.99
Payments from landlord Paiements par le propriétaire		1		160.00
Other Autres	1	12	885.	4923.53
TOTAL	532	4695	94110.	1330616.20

TABLE / TABLEAU VI

Disbursements Débourses	Number / Nombre		Amount / Montant	
	Cur. Cour.	Cum. Cum.	Cur. Cour.	Cum. Cum.
Request for refund S.D. Demande de remboursement du dépôt	196¼	1577¼	☒	☒
Claims on S.D. Réclamation sur le dépôt	76 3/4	490¼	☒	☒
S.D. refunded Dépôt remboursés	263¼	2010½	46196.	362545.44
S.D. to contractor Dépôt à l'entrepreneur				
Rent to Landlord Loyer au propriétaire		3		462.56
Rent to contractor Loyer à l'entrepreneur		3½		889.44
Other		10		3888.53 •

for this is that this agency does not have the power to condemn properties (although, as noted, they can collect rent and make repairs).[34] Rather, they often refer cases to city building inspectors or to health inspectors. The Rentalsman's Office does, however, have a staff of generalist inspectors, calling in specialized inspectors from other agencies as needed.

Provincial fire prevention, electrical and plumbing responsibilities are all lodged in the Department of Labour and Manpower. There is not only provincial enabling legislation in these areas relating to existing buildings, but the provision of provincial inspection services as well.

It will be noted, however, that at present building code matters are within the Department of Municipal Affairs, which does not have inspectional services available to municipalities, it being expected that they administer their own building codes.

A number of small communities find that it is not cost-effective to hire a building inspector. The Village Association of New Brunswick has passed resolutions, on several occasions, asking the Province to provide building inspectors to clusters of adjacent villages, who would pay for this service on a cost-shared basis, but so far the Province has not had the available staff to permit it to respond. The Association is continuing to press for such assistance. The possibility of CMHC playing a similar role was also discussed some time ago, but no arrangement was worked out. Still another possible solution would be for villages to seek to be included in the territory of a District Planning Commission, under which circumstances the Province would pay half the cost.

This issue seems to be related to another which was brought to my attention by a staff member of the CMHC Fredericton Office. This is that there seems to be a somewhat of void where it comes to dealing with conditions in rural New Brunswick. County governments were abolished some 15 years ago and while Municipal Affairs was expanded somewhat at that time, it has not had the staff to provide the services that the counties formerly provided. The result is areas without any local government of their own. They are known as Local Service Districts (LSDs). Provincial staff known as Municipal Representatives as well as the LSD Committee and the Administrator of the Community Planning Branch carry out a number of local government functions, however, sometimes including building inspections. The villages and towns were not adversely affected by the aboliton of county governments.

While the above issue has been raised in the context of Building Code administration, it is relevant to the present study because the same considerations impact on the capacity of several communities to administer M&O bylaws.

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[34] Unlike British Columbia, the New Brunswick Rentalsman's Offices do not have to wait until enough rent has been collected to cover the cost of the necessary repair or other action before taking corrective action.

For the future, an Office of Government Reform has been established to examine the entire workings of the Provincial Government. In the inspectional field, they have found that some 50 agencies have inspectors. The Office of Government Reform proposes three broad inspections groupings:

1. Health
2. Building
3. Financial-related

Within the "Building" category would be both generalist and specialist inspectors as back-up. Thus, with the generalist (building) inspection function lodged in one Department, and the specialists in another, at present, it is likely that there would be some organizational changes if the recommendations are adopted.

Returning to present inspectional arrangements and enabling legislation, in the area of fire prevention, Section 12(1) of the Fire Prevention Act[35] gives the fire marshal (Provincial) or local assistants the power to inspect buildings and order corrective action. (Section 11, other subsections of Section 12, Sections 13, 14 and 15 deal further with inspections, compliance procedures and appeals.) "Local assistants" are the municipal fire chiefs. In smaller communities, where fire departments are wholly voluntary, the fire chiefs see their primary responsibility as fighting fires. Thus, they would use these powers only if they perceived a life hazard situation. The smaller communities, I was told, tend to feel provincial involvement is an infringement. There is, however, perhaps more control in larger communities.[36]

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[35] 12(1) When the fire marshal or a local assistant finds a building or other structure that, for want of proper repair or by reason of age and dilapidated condition or for any cause, is especially liable to fire, or that is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein or that exits from the building or buildings are inadequate or improperly used, or that there are in or upon any building or premises, combustible or explosive material or conditions dangerous to the safety of persons, buildings or premises, he may order the owner or occupant to

(a) remove or demolish such building or make such repairs or alterations as such officer deems necessary;
(b) remove such combustible or explosive material or remove or repair anything that may constitute a fire hazard;
(c) install safeguards by way of fire extinguishers, fire alarms and other devices and equipment and also such fire escapes and exit doors as such officer deems necessary to afford ample exit facilities in the event of fire or an alarm of fire;
(d) carry out such drills and evacuation procedures as the fire marshal feels necessary where the major concern is to save lives by an orderly evacuation of persons at the time an emergency arises.
Am.(c),(d), 1975, c.78,s.4.

The Building Standards Branch of the Department of Labour and Manpower provides plumbing inspector services to all municipalities but Saint John, Fredericton and Moncton. Section 4.4 of the Plumbing Installation of Inspection Act provides the necessary authority for right of entry.

Plumbing permits are required for all plumbing work, even do-it-yourself work.

The Electrical Installation and Inspection Act covers the entire Province; no municipalities have their own electrical inspectors.

All electrical work where a connection is required must have a wiring permit. A property owner cannot get a power connection without such a permit. Permits are not required, however, for the addition of under 10 outlets or for the installation of a range, dryer or hot water heater. Nevertheless, no do-it-yourself electrical work is permitted and all electrical contractors must be licensed. (Sanction of do-it-yourself electrical work was proposed several years ago, but the electrical trades lobbied against the change and the Minister felt sufficient support staff to provide the additional service could not be provided.)

Provincial electrical inspections are done on a sampling basis. The Province also carries out inspections by referral from fire officials, etc., but they feel that many of these referrals could have been handled perfectly well by the referring agency.

Still another area of provincial involvement with existing buildings takes place under the rather broad powers of Section 22 of the Health Act relating to existing buildings.[37] The Guidelines put out by the province covers the basic requirements for occupancy: heating, lighting, ventilation, sanitary facilities, overcrowding.

The effect of this Act, as I understand it, is to provide what pretty much amounts to a dangerous or unsightly premises regulation. That applies to all areas of the Province. The Public Health Inspections unit tries not to use the vacate powers unless they absolutely have to, and where it is necessary, they try to find relocation housing through Social Services.

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[36] For example of major involvement of fire department with existing dwellings and of close coordination with local building officials in Fredericton, SEE Hale, R.L., "A Profile of Successful Maintenance and Occupancy Experience in Canada," pp. x, 14, 15, 20-22, 64.

[37] Section 22 of the Health Act is shown in Appendix "B".

The Social Services Department, I was told, has, until recently, actually both built and rehabilitated homes for Welfare clients. The rehabilitation component of this service, which includes counselling for both tenants and homeowners, continues.

But there is also enabling legislation for dangerous and unsightly premises bylaws which can be enacted by municipalities. This is contained in Section 190 of the Municipalities Act. The Province has prepared a model bylaw, which simply recites all the pertinent subsections of Section 190 with appropriate additional language to convert these clauses into a bylaw.[38] All six cities, all 22 towns and 47 villages have enacted this section or have otherwise adopted proper legislation which satisfactorily provides for the regulating of dangerous or unsightly premises. In light of this municipal action, the operation of Section 3 to 7 and Section 10 of the provincial Unsightly Premises Act has been suspended in each of these municipalities.

Provincial View of CMHC Involvement

As to what provincial officials feel to be a suitable role for CMHC, a senior official in the Municipal Service Branch, Department of Municipal Affairs, stated that he thought the provision of model bylaws is important, and that CMHC should provide such model bylaws to provinces lacking them, and urge them to adapt them for use in their own municipalities.

Conclusion

New Brunswick has had enabling legislation for M&O bylaws since before the advent of NIP and RRAP. This legislation was prompted by a concern over large, formerly one-family, houses which were being cut up into apartments in some communities.

While not quite as high a percentage of communities of over 2 500 population have M&O bylaws as in Nova Scotia, the coverage is nevertheless quite respectable, and it may well be that the proportion of M&O bylaw communities that actually administer these bylaws actively is higher, as the provincial official responsible for technical assistance to municipalities in this sphere urges municipalities not to bother with adopting bylaws unless they are prepared to administer them vigourously.

The presence of this official, who had long experience as a municipal building inspector before joining the province, is an important component of the Province's role with respect to M&O bylaws. While at least one other Province has an official whose duties centre around M&O bylaws, none have anyone equipped to provide quite the same sort of "hands-on" advice as this official.

The Province also exerts an important role in maintenance of existing housing through handling of complaints about property condition from both tenants and landlords through its Residential Tenancies Commission.

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[38] This model bylaw can be found in Appendix "C".

QUEBEC

While not too many Quebec municipalities had active M&O bylaw programs at the time this report was being written, clear enabling legislation is now in place and both the Province and certain municipalities were actively considering improvement with respect to M&O bylaws as this report was being written (late 1984).

Background

Both Montreal and Quebec City have had the power to enact M&O bylaws in their own city charters, and Montreal has had such a bylaw since 1965, which became city wide in its application in 1969. Enabling legislation for the Province as a whole, however, was not enacted until 1979. This was done through Sections 121 and 122 of the law establishing the Régie du logement, which in turn, amended the Loi sur les cités et villes (Towns and Cities Act) (Section 121) and the Municipal Code (Section 122) with virtually identical language.[39]

There has been some confusion, in the past, over whether Quebec municipalities were empowered to enact M&O bylaws. One reason for this is that, as a condition of Provincial rehabilitation assistance, they were required to adopt normes d'habitabilité (standards of habitability), which applied to the dwellings being rehabilitated. These were sufficient to meet the requirements of Section 34.1 (3) of the National Housing Act,[40] but were not legally enforceable in the case of an existing dwelling that was not the recipient of governmental financial assistance for its rehabilitation.

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[39] Section 413 of the Loi sur les cités et villes, as amended by Loi 107, now reads:

Regulations: 413. The Council may make regulations:

IV. Salubrity of houses, etc.

Dwellings: 8th. To regulate the conversion, maintenance and quality of dwellings, rooms offered for rent, housing and residential properties, including their dependencies; to prohibit their occupancy if they are not in conformity to the regulation as well as to the laws and regulations of Quebec; to make the regulation applicable to existing places.

The wording of Section 392 j. of the Municipal Code is identical save that, being a single subsection rather than a grouping of a number of subsections, the language of the subsection is self-contained, thus:

392 j. All local corporations may make, amend or repeal regulations to regulate the conversion, maintenance... etc.

[40] See footnote 1, p.1.

A related reason for the confusion is that these standards of habitability have sometimes been referred to as Codes du logement (Housing Codes - which is the common term in the U.S. for M&O bylaws). Thus, the City of Quebec adopted a "Code du logement" in 1978. This code does, in fact, contain the standard compliance and appeals procedures, and its Preface notes that it is enacted according to powers contained in the City Charter. Yet the same Preface also notes:

> In conclusion, the housing code seeks to be a minimum standard of habitability supported by a program of governmental subsidy and steps of encouragement looking towards a better quality of housing as well as better care.[41]

Quebec city officials informed me that, indeed, this code was used only in connection with buildings being rehabilitated; its standards were too stringent to be required of property owners who were not, at the same time, receiving a subsidy to help defray the cost of repairs. But they called my attention to another regulation, passed later that same year, governing the conditions of maintenance of buildings, and applying city-wide.[42]

Still a third reason why there has been some confusion over whether Quebec communities were empowered to enact M&O bylaws is that Loi 107 (establishing the Régie du logement) had been challenged in the courts. In point of fact, the Sections amending the Towns and Cities Act and the Municipal Code were never in doubt, but not all municipalities were clear on this point.

Municipalities with M&O Bylaws

Under the 1979 enabling legislation municipalities are not required to notify the Province when they adopt an M&O bylaw. Moreover, since the CMHC requirement in connection with RRAP is that municipalities using RRAP have maintenance and occupancy standards satisfactory to the Corporation, the Standards of Habitability (referred to above) have been deemed to suffice,and CMHC has thus not had the occasion to ascertain exactly which municipalities have adopted full-fledged M&O bylaws.

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[41] Ville de Québec, Service de l'urbanisme, Code du logement, mars 1978.

[42] This is in Règlement No. 2552, Code d'entretien du Bâtiment. It approaches being an M&O bylaw, but has no occupancy provisions and mainly concerns itself with exterior conditions and with conditions in common areas. I was told it has mostly been used for dangerous and abandoned buildings. At the time of my visit to Quebec (Nov., 1984), city officials had drafted a new regulation: "Règlement N^{o}__ concernant l'occupation, l'entretien et la conservation des bâtiments," combining features of the1978 Code du logement and Regulation No. 2552. It will be city-wide in its applicability, will reflect standards of today, but as well will be written in an awareness of the characteristics of Quebec's historicbuildings. It covers rooming houses as well as family units, and spellsout both tenant and landlord responsibilities. Inasmuch as the new regulation will be enforceable throughout the City, its requirements will be less stringent than those of the Code du logement which, as I have noted in Quebec City's case, applies only to buildings receiving rehabilitation subsidy. In short, it will be what is commonly understood to constitute an M&O bylaw.

The situations of Montreal and Quebec with M&O bylaws have already been discussed. In addition, twelve other municipalities are known to have adopted these bylaws soon after the enabling legislation was passed in 1979. They are:

Brossard
Hull
Jonquière
Laval
Longueuil
Mont Joli
Montréal-Nord
Outremont
St-Georges
St-Laurent
Valleyfield
Verdun

In addition, approximately 40 other municipalities are said to have Codes du logement in limited areas, presumably along the lines of Quebec's Code du logement.

What is clear, however, is that there are no longer any barriers to adoption of full-fledged M&O bylaws by Quebec communities.

Other Codes and Regulations Affecting Existing Buildings

In order to obtain the full picture of present-day Quebec legislation regarding the condition of existing buildings, it must be understood that, in addition to enabling legislation, there are also a number of provincial codes and regulations relating to the condition of existing buildings which the Province itself is empowered to enforce. These laws date as far back as 1866, when an "Act to facilitate egress from public buildings" was enacted. Legislation in 1901 addressed itself to hygiene in certain buildings, especially dwellings, and in 1909 the Law Respecting Safety in Public Buildings (See below) was enacted. This was followed, in 1918, by a law regarding fire protection and in the 1930's by laws concerning electrical installations, plumbing and boilers.[43] In all, "the construction and the occupancy of a building are subject to 29 codes or sets of regulations administered by units of the Quebec government, to which are added the codes or regulations of the municipality in which the building is situated..."[44] Nine different provincial codes or regulations apply to existing building, of which at least four are reported to intersect with the subject matter of other codes.[45]

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[43] Carreau, Serge, Étude sur la Réglementation gouvernementale afferente à la Sécurité et la Santé du public dans les Bâtiments et certains lieux publics, version préliminaire, août 1983, p. 7. This study by Mr. Carreau, former Vice-President and senior advisor to the Quebec Housing Corporation, provided important background information on provincial building regulations that, in turn, was utilized in the 1984 Green Paper, "Se Loger au Québec". (See footnote)

[44] Ibid., p. 105

[45] Ibid., p. 107

These various codes and regulations are under the various jurisdictions of the Ministry of Housing and Consumer Protection, Municipal Affairs, Quebec Hydro, the "Régie du logement" (Rent Control).

By far the most important of these are the Regulations respecting Safety in Public Buildings. Apartment blocks of more than two stories and eight dwellings are considered "public buildings" under the legislation authorizing these regulations. These regulations are administered directly by the Directorate-General of Inspections (DGI), which is a unit of the Ministry of Housing and Consumer Protection. The Province's concern is not so much with the interiors of dwellings (which are not considered public space) but with the public space in such buildings: mechanical systems, plumbing, electricity, etc. The regulations also contain requirements for the provision of sanitary accommodations for each dwelling.

In the case of structural safety and plumbing, the provincial regulations often overlap with municipal regulations.[46] If the municipality has its own plumbing inspection team and plumbing code, as some 15 municipalities in the Montreal Region do, the DGI does not intervene, and the local code takes precedence. On the other hand, few, if any, municipalities have regulations duplicating the electrical sections of the regulations nor those portions dealing with boilers under pressure.

The "Régie du logement" has the power to prepare its own regulation concerning the condition of rental dwellings under its jurisdiction, but has not made use of this power. Article 108 of the law on the "Régie du logement" enables it to adopt, by regulation, minimum requirements of habitability for rental dwellings and, under Articles 1652.2 and 1652.4 of the Civil Code, it is empowered to impose civil sanctions, rent reductions and rent withholding. It can thus order an evaluation of the condition of a dwelling by an expert witness, and it can declare a dwelling unfit for habitation.[47]

The volume of activity under these powers is not great, however. During 1981-82 it ordered 158 inspections and 4 of the more detailed appraisals of quality. What has in fact occurred is that, since the most frequent complaints are in the larger municipalities with M&O bylaws, the cases are referred to Municipal authorities. The principal impact of those Regie du logement regulations, has been to increase the municipal workload under the M&O bylaw. The reader should bear in mind that it was the very legislation that created the Regie du logement that contained the enabling language for municipal adoption of M&O bylaws. Thus, this essential linkage has been recognized from the onset, and is not simply fortuitous.

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[46] Ibid., p. 111

[47] Ibid., p. 31

Further provincial legislation, relating to heritage preservation, is lodged in the Ministry of Cultural Affairs. This is the law on cultural properties.

"This law, although not having any tie with the safety or health of people in the buildings, has been retained because the objectives of preservation of cultural properties which are sought often pose numerous problems, when it is a matter of rehabilitating or renovating a building. It is often very difficult to satisfy, at the same time, the requirements of the Ministry of Cultural Affairs and those flowing from a building code as well as occupancy requirements."[48]

The requirements are that no listed building or one situated in a historic zone or protected area can be demolished, altered, allowed to deteriorate, restored, repaired nor modified without authorization of the Minister. Fines of up to $25 000 can be imposed.

Jurisdiction over fire prevention appears to be split between the Ministry of Municipal Affairs and the DGI. The Law on Prevention of Fires references the Law on Safety of Public Buildings in such a way that fire protection in buildings that come under that law is the responsibility of the DGI, but fire protection in other buildings comes under the jurisdiction of the Director General of Fire Prevention Services in the Ministry of Municipal Affairs.

This official has the power to call on the Superior Court to enjoin the owner of a building presenting hazards to carry out work necessary to eliminate the danger or even to demolish the building in question.[49]

There are still more provincial laws and regulations touching on existing dwellings listed in Mr. Carreau's study. Nevertheless, there has been a trend towards delegating more regulatory powers to the municipalities. Thus, it is they who primarily regulate residential health and occupancy requirements. Only municipalities are empowered to regulate all types of buildings with respect to construction, occupancy, salubrity, fire prevention and all building elements. The Law on the quality of the environment goes still further, in its chapter on Sewage Treatment, where it obliges municipalities to supervise the administration of the regulation prescribed by the government.[50]

While the above does not relate directly to M&O bylaws, the relationships and requirements are noted here because they illustrate various options open to the Province in setting forth municipal powers and responsibilities.

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[48] Ibid., p. 37

[49] Ibid., pp. 52-53. Also, letter of 1985-04-03 from Jean-Paul Perrault, ing., Direction Études et Programmes, DGI, to R.L. Hale.

[50] Ibid., p. 55. It should be noted, with respect to the Planning Act requirements, however, that Quebec municipalities have been empowered to adopt a Building Code, which a number have done, in part or in whole.

The 1984 Quebec Green Paper

In November 1984, the Ministry of Housing and Consumer Protection issued a Green Paper[51] entitled "Se Loger au Québec: une analyse de la réalité; un appel à l'imagination" ("Housing Oneself in Quebec: an analysis of the present reality; an appeal to the imagination").

This paper covers the entire range of the governmental role in housing, and it is, of course, beyond the scope of the present paper to attempt to summarize it. Suffice it to say that one of its basic tenets is that the Province is not in a position to solve all the housing problems by itself, and it sees a growing role for municipalities, as well as for other actors.

There are several parts of the report that bear directly on minimum property standards - M&O bylaws. The government's proper role is discussed, as are possible scenarios for improvement.

The Green Paper states that the government - which is to say the provincial government - has a responsibility to assure that all buildings, especially residential ones, pose no danger to the occupants: health, structural, fire, accident. Thus, the government should assure that all housing meets minimum standards so that risks can be reduced as much as possible. On the other hand, the report states, other aspects of housing: architectural, aesthetic, liveability, are best left to the municipalities or to the households themselves.

The report notes that different levels of standards should be required, on the one hand, for new construction and, on the other hand, for existing buildings. A dwelling not conforming to minimum standards should not be rented nor, in extreme cases, should owner-occupants be permitted to remain in occupancy, particularly if there are fire hazards.

It goes on to note that:

"The objectives of the involvement of the State in defining qualitative housing requirements are not always clearly perceived and find expression in a voluminous body of regulation, scattered and sometimes difficult to apply.

"...For existing buildings, required standards are dispersed here and there, especially in the Regulation respecting safety in public buildings, the Regulation on Housing" (a very old sanitation law whose powers have now been transferred to municipalities) and the Regulation respecting salubrity of public places. These regulations are sometimes outdated and do not apply equally to all types of residential buildings. Under present circumstances, it is quite difficult for owners, for tenants, and even for building specialists to grasp exactly what the Province and local administrations require in the way of minimum quality, even if these requirements have major repercussions on public safety, on residential well-being and on the cost of housing.

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[51] A "Green Paper" is a discussion paper, as compared to a "White Paper", which contains proposed policy.

"Concrete action is essential to correct the gaps which have been identified, and in particular to regroup, simplify and refine the minimum housing standards, and to facilitate their application".[52]

The Green Paper goes on to present "Possible scenarios for intervention":

Existing residential buildings of more than two stories or eight dwellings would come under a new code regarding safety. This new code would regroup in a single document the minimum requirements with which all such residential buildings[53] must conform. These requirements would include those having to do with salubrity and hygiene, structural solidity of the building and protection against fire and accidents.

In addition, minimum housing requirements applicable to all residential building and concerning the building itself as well as its maintenance and safety characteristics could be contained in a volume which the Province would submit for discussion by tenants, owners, municipalities and entrepreneurs before its publication. The report says that these regulations would be principally of use in connection with small, existing, residential structures not regulated by the Construction Code[54] and the Safety Code.

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[52] Ministère de l'Habitation et de la Protection du consommateur, "Se loger au Québec: une analyse de la réalité, un appel à l'imagination," Québec, 1 Nov. 1984, p. 99.

[53] The new code, which is Chapter III - Public Safety - of Bill 53, the Building Act, applies to all types of buildings except:

1) single-family dwellings;

2) entirely residential buildings having fewer than three floors or fewer than nine dwellings;

3) buildings of a class excluded by government regulation by reason of their use or their area.

As to adoption and administration of these codes, the paper suggests two options:

1. Retain the power of municipalities to adopt standards similar or additional to those contained in the "Code de la construction" and the "Code de la sécurité", and negotiate with each agreements relative to the administration of provincial codes and the promotion of minimum standards.

2. Proceed with a legislative reassignment of responsibilities, if there is agreement with the municipalities. Under this reassignment of powers, municipalities would renounce their power to develop and adopt standards, and would find themselves entrusted with the application of the provincial "Code de la construction" and "Code de la sécurité".[55]

The report does not speak explicitly of how the minimum housing requirements applicable to all residential properties would be administered. I was told, however, that current thinking on the part of provincial officials is that these requirements would serve as a model M&O bylaw, under the power of Section 413 of the "Loi sur les cités et villes", and presumably of Section 392 j of the Municipal Act, as well.

What will now happen to the recommendations or alternatives set forth in the Green Paper? Consultations on the paper were held during the Spring of 1985.[56] Following the hearings, the Province has moved rapidly with the drawing up, and then the passage of the new Building Law (Loi sur le bâtiment) referred to under the "possible scenarios for intervention", and referred to these as a "Construction Code". This new Law 53 seeks both to assure the quality of construction and the security of persons who have access to buildings. It also seeks to provide improved consumer protection to persons buying buildings. To do this, it has regrouped and made uniform numerous pieces of legislation which, up until now, have provided for the adoption of construction or safety standards. (In all, some 15 laws are modified and eight more are repealed by the new Act.)

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[54] Ibid., p. 99. The Construction Code would in fact be somewhat broader than the building code, as the green paper suggests pulling together in a single set of standards: the Quebec Building Code, the Electrical Code, the Plumbing Code, the Law on Economy of Energy, measures relative to disabled persons, etc.

[55] Ibid., p. 100

[56] Article in Le Soleil, "Même avec la nomination de Rochefort à sa tête, le ministère de l'Habitation garde ses orientations", by Vianney Duchesne, 1984-12-06.

Law 53 also maintains a system of certification of builders, and provides for putting into place a warranty program.

It reorganizes the functions exercised by various agencies and ministries, and entrusts them to a new Building Commission, but it also makes provision for the maximum possible participation on the part of builders, trade associations, professionals and municipalities. Finally, it contains certain provisions governing real estate transactions.

Of particular relevance to this paper is Chapter III, "Public Safety", which provides for the adoption of a Safety Code "for the purpose of assuring the safety of all persons having access to a building or a facility designed for public use...".

Elsewhere in the chapter, it is noted that these provisions (with the exception of electrical, plumbing and gas installations) do not apply to single-family houses, totally residential buildings of less than three stories or nine dwellings. In other words, it does apply to all residential buildings above these limits.

Elsewhere in the new law (Art. 132) provision is made to delegate to a municipality or a regional municipality, by a written agreement, the above powers of the Act.

The next step will be to develop the Safety Code - which in effect will be a set of minimum property standards regulations applicable province wide (the power to adopt a Safety Code is not delegated).

To this end, the Province intends to hold a series of further consultations, and these consultations will include the proposed provisions of the model minimum housing requirements applicable to all residential buildings. Note, then, that the minimum property standards regulations for larger residential buildings are to be applicable province-wide, but with municipal administration of them encouraged, whereas the minimum housing requirements applicable to all residential buildings are proposed to be in the form of a model set of regulations for municipal adoption.

Provincial View of CMHC Involvement

How does the Province feel about CMHC's involvement in this sphere of activity? I discussed this question with a senior official of the Ministry of Housing and Consumer Protection. He thought a CMHC role in serving as a national clearinghouse of information and experience would be useful. While

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[57] For excerpts from "Projet de Loi 53" SEE Appendix "B".

he thought it reasonable for CMHC to expect municipalities to require adherence to property maintenance and occupancy standards as a condition for RRAP, he made it clear that, in the Province's view, CMHC should not deal with municipalities on a case-by-case basis, but should, instead, negotiate with each province the mode of encouraging adherence to standards, and leave it to the provinces to deal directly with the municipalities. Care would have to be taken not to impose a uniform national requirement on all provinces, given that circumstances vary so much from one province to another. He cited, in particular, the high ratio of rental stock vis-à-vis owner-occupied housing in Quebec.

Summary

While Montreal and Quebec have had the power to enact M&O bylaws through their city charters, province-wide enabling legislation was not put in place until 1979. Thus the number of municipalities with true M&O bylaws is not large, even though Montreal's program is of long standing and highly-developed.

With a recent Green Paper on housing, however, the Province has shown itself to be highly interested in the maintenance of the existing housing stock, and it has now consolidated a number of existing laws into a comprehensive Building Law which, once its regulations have been prepared, will include regulations governing the maintenance of multi-family residential buildings throughout the province, the administration of which can be delegated to municipalities.

At the same time as consultations are being held on the regulations under the new Building Law, the Province will be consulting with municipalities, as well as with tenants, owners and entrepreneurs, on proposed minimum housing requirements applicable to all residential buildings. The latter would be published as a model code or bylaw, principally for use with buildings not falling under the jurisdiction of the new Building Law.

While there has not yet been time for all the recommendations of the Green Paper to come to fruition, the Province has moved without delay into consultation and then the implementation stage. It thus appears that Quebec is moving into a position that is increasingly on the "leading edge" as far as the maintenance of the existing housing stock is concerned, and that other provinces may be able to learn from observing Quebec's experience.

ONTARIO

Ontario has been, and continues to be, by far the most active province with respect to property maintenance and occupancy bylaws. Perhaps the strongest evidence of this leadership is that a 1983 survey by the Ministry of Municipal Affairs and Housing found 214 Ontario communities to have such bylaws. The early M&O bylaws were created through Private Bills in the provincial legislature: Toronto's in 1936, Ottawa's in 1952, Windsor's in 1958, Kingston's in 1965, and Sault Ste. Marie's in 1970. The first province-wide enabling legislation dates to 1964, and it has been modified several times since then. The effect of this legislation was that Ontario communities no longer had to obtain private provincial legislation to enact property standards bylaws, and still further that certain requirements were set forth regarding such bylaws if a municipality opted to enact one. On the other hand, the very degree to which Ontario has been involved in building regulation has led to a proliferation of provincial legislation and of jurisdictions that requires each Property Standards Officer (PSO), as M&O bylaw inspectors are called in Ontario, to have a sophisticated knowledge of provincial law in order to perform his or her duties. Not only does this complexity make it difficult for inspectors, but for the public as well. This problem is being addressed by the Province.

Background

While, as noted, Toronto's Housing Standards Bylaw was enacted in 1936, it was not administered vigorously from that date. Indeed, by 1954 the Province's Housing Branch, "formally advised the City of Toronto that no further provincial financial aid towards redevelopment would be forthcoming unless the City enforced its Housing Standards Bylaw".[58] 1956 legislation gave the City greater powers of enforcement.[59]

In 1958 Ontario, with the help of a grant from CMHC under Part V of the National Housing Act, embarked on a study of approaches to housing conservation that embraced both the Canadian and U.S. experience to that date. The study concluded that the abundance of controls and regulations in the areas of fire, health, building, plumbing and electrical systems which existed in a number of provinces were no substitute for a comprehensive set of regulations covering all these areas for the purposes of housing conservation - in short, M&O bylaws. This study culminated in the landmark report, "A Better Place to

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[58] Hossé, H.A., for the Community Renewal Branch, Ministry of Housing, Province of Ontario, "Conserving and Improving Our Property: A Handbook for Property Standards Officers," Toronto, May 1976, pp. 1-5. This comprehensive handbook, the first and only such book published by any province, is in itself an excellent example of what a province can do to advance the state of the art of M&O bylaw administration.

[59] Brown, J.F. et al, "A Better Place to Live: A Study on Minimum Standards of Occupancy and Maintenance of Dwellings," (jointly sponsored by CMHC and the Ontario Department of Municipal Affairs) Toronto, 1962, Final Report, p. 43.

Live," cited at footnote 59.[60] This report is an excellent source of information on early M&O bylaw activity, but it is important to note that, even then, it was stressing that such bylaws not be administered in isolation from other housing conservation measures.

It was this report, primarily, that led to the enactment, in 1964, of Ontario's first enabling legislation for M&O bylaws, referred to above (Section 30 (a) of The Planning Act). While this legislation relieved municipalities of the need to obtain special private bills in order to enact M&O bylaws, they were still required to have a statement of housing conservation in their Official Plans, and the bylaws had to receive the approval of the Ontario Municipal Board (OMB).

This was taking place during the Urban Renewal years, and the Province's "Urban Renewal Section (now the Community Renewal Branch) continually stressed the need for municipalities to pass minimum standards bylaws both as a means of improving existing property and as a preventative measure which could alleviate to a large extent the need for public renewal action in the future".[61]

Then, in 1966, the City of Ottawa obtained, through a private bill, a non-residential standards bylaw, thereby covering the maintenance of all property.[62] This was a pioneering step, not only for Canada, but for all of North America.

In 1969 the Department of Municipal Affairs initiated a study on the maintenance of property in Ontario and to propose measures to meet the need, including amendments to the Planning Act.[63] This culminated, in 1970, in a report entitled "The Maintenance of Property - A Program for Ontario", written by Matthew B.M. Lawson. One of the recommendations was that the Planning Act be amended to enable M&O bylaws to cover all types of property, not just residential, following the City of Ottawa's lead. Such a change was made in 1972.

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[60] Hossé, op. cit. pp.1-5 and 1-6.

[61] Ibid., pp.1-6 and 1-7.

[62] Ibid., p. 1-7.

[63] Lawson, Matthew B.M., "The Maintenance of Property - A Program for Ontario", Toronto, Department of Municipal Affairs, Ontario, 1970.

The Lawson report also strongly recommended that M&O bylaws only be administered in the context of a broader property conservation strategy, whose principal elements are:

- encouragement
- advice
- assistance
- enforcement[64]

Some of the Lawson report recommendations gave impetus to both the provincial and federal rehabilitation financing programs that subsequently were enacted.

Other recommendations - still well worth examination - deal with the manner in which property conservation programs could be administered in communities of various sizes, ranging from the smallest to the largest, and suggested appropriate postures for the Province for communities of various populations.[65]

In all, the report contains 22 recommendations covering all facets of property conservation and maintenance.

Present Role of Province

The Province continues to encourage municipalities to adopt and administer M&O bylaws in a number of ways:

1. As a Prerequisite for Certain Provincial Programs

The Province strongly encouraged municipalities to enact M&O bylaws under the Urban Renewal Program. Later, it required as a condition of eligibility for the Ontario Home Renewal Program (OHRP) that a community either adopt an M&O bylaw or, at a minimum, that Council adopt by resolution a set of maintenance and occupancy standards, applicable in this case only to dwellings benefitting from OHRP assistance.

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[64] This recommendation is discussed in some detail in Hale, op. cit., pp. 9-11.

[65] Lawson, op. cit., p. 25. The report suggested that:

> "The Province would take direct responsibility for the programs in unorganized territories, in rural areas and municipalities of less than 5000 population, and in those municipalities between 5000 and 50 000 that elected not to undertake the responsibility, except where the role was assigned to a regional municipality."

Note that this parallels current thinking in Quebec regarding the capacity of the Province to administer minimum housing regulations if the municipality is not equipped to do so. SEE p. 45.

Currently, full-fledged property standards bylaws are required to make a municipality eligible for two provincial programs:

- The Ontario Neighbourhood Improvement Program (ONIP); and
- The Commercial Area Improvement Program (CAIP). M&O bylaws were also required in connection with CAIP's two predecessor programs, the Main Street Program and the Ontario Downtown Revitalization Program.

2. By Use of Provincial Staff

There has been a Coordinator, Property Standards, within the Ministry of Municipal Affairs and Housing for a number of years. Currently she is located in the Community Renewal Branch. In addition to being the lead provincial staff person with regard to property maintenance and occupancy bylaws, she has trained all eight of the Branch's area planning staff so that they can now review official plan amendments, talk to municipal officials about M&O bylaws, review proposed bylaws, etc.

The work of the area planning staff is facilitated by the fact that ONIP and CAIP, for which they are the Province's immediate liaison with municipalities, require M&O bylaws.

3. By Sponsoring Conferences/Workshops

The Ministry of Municipal Affairs and Housing (and its predecessor ministries) have sponsored numerous workshops throughout the Province to which people from small municipalities without M&O bylaws - or perhaps only with the M&O standards that constitute the minimum requirement for OHRP - are invited to hear the experience of those with active programs. Such contacts often stimulate other communities, upon learning that neighbouring communities have adopted and administered M&O bylaws without catastrophe, to adopt such bylaws themselves.

4. By Supporting the Ontario Association of Property Standards Officers (OAPSO)

There is only one association comprised wholly of persons engaged in the administration of M&O bylaws in all of North America. While there are other organizations to which PSO's and their counterparts in other jurisdictions may belong, none offer a satisfactory means of facilitating the kind of "nuts and bolts" professional interchange that OAPSO offers. Thus, there are associations of building officials and of housing and renewal officials in both Canada and the U.S., but the building officials' groups have focussed, at least to date, more on new construction than on matters concerning the existing stock (although this is beginning to change) and the associations of housing and renewal officials do not offer the degree of specificity in this particular subject area that is necessary for professional growth.

OAPSO, which receives financial support from the Province, also draws to their meetings officials from communities not yet themselves involved with M&O bylaws. This is facilitated by the fact that the Association has developed a regional structure, the better to meet the need of communities in a geographically large province who have limited travel capacity.

The Association holds an annual training seminar, for PSO's of varying levels of experience and with a varied course offering. A number of its key members were also instrumental in helping CMHC develop the initial courses offered by its Rehabilitation Skills Training Centre (RSTC).

Not only has OAPSO had a significant impact on the state of training of Ontario PSO's, but it has also had an important impact on the number of municipalities in Ontario with M&O bylaws.

Currently, there is some talk of OAPSO merging with the Ontario Building Official Association (OBOA) and with other building-related associations. The Province is encouraging such a step, and it is thought that such a group could better assist the Province in streamlining the present array of building regulations. If such a step is taken, however, it will be important to ensure that the concerns of PSO's are not made secondary to those of the other types of officials, as is the case with the three building official groups in the U.S.

5. By Providing Training

Under the leadership of the Ministry of Municipal Affairs and Housing (MOMAH), Building Branch, a Municipal Inspectors' Training and Educational Committee (MITEC) has recently been formed. MITEC's Council consists of representation of the associations representing property standards officers, building officials, plumbing inspectors and bylaw enforcement officers. This Council has outlined a training program to meet, initially, common needs, but then becoming more specialized in later years.

MITEC's training plan is predicated on the assumption that inspectors, as a rule, could be made available for training for two weeks every year. On this assumption, they are proposing a three-year, four-level, training sequence:

Year 1: a basic, introductory, two-week course, focussing on one-family structures;

Year 2: a) a one-week course concerning inspections of buildings of up to 6 000 square feet in area and 3 stories in height;

b) a one-week course on bylaw enforcement;

Year 3: one week each at the intermediate and advanced level, concentrating on the special needs of each type of inspection.

After the third year there would be a series of specialist courses developed. To date, the first course is ready to be offered.[66]

While several other provinces offer inspector training courses, some of them of excellent quality, none of them really cater to the specialized needs of the M&O bylaw inspector. In contrast, MITEC has attempted to place the PSO on an equal footing with other inspectors. Their courses, then, could serve as useful models to other provinces, as they develop.

The Planning Act

Ever since Ontario's first enabling legislation for M&O bylaws was enacted in 1964, it has been contained in the Planning Act. There have been a number of modifications to this Act, and the number of the section in which the M&O bylaw enabling legislation is contained has been changed several times. The last revision was in 1983, and the current section number of the Act relating to bylaws and standards for maintenance and occupancy is Section 31. Section 32 is also of some relevance, as it empowers municipalities to make grants or loans for repairs, and Section 33 permits the establishment of demolition control areas by bylaw.[67]

Section 31 differs from the enabling legislation of any other province in that it is far more detailed than most enabling legislation, which normally simply states that a municipality is empowered to enact a bylaw for the maintenance and occupancy of housing (or of properties, as the case may be).

Thus, the administrative features of property maintenance and occupancy bylaws contained in Section 31 are mandatory, while the standards of maintenance sections are at the discretion of the municipality. The result is both to exert a certain consistency in the fashion in which M&O bylaws are administered, but also to suggest options available to municipalities, and to provide the legal undergirding of these options.[68]

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[66] Telephone interview with Louise Robertson, Building Branch, MOMAH 1984-12-17.

[67] Sections 31, 32 and 33 of The Planning Act, 1983 are reproduced in Appendix "A".

[68] One city solicitor experienced in M&O bylaw enforcement has stated: "I find the sections of the Ontario Planning Act dealing with property maintenance to be the most effective legislation in this field; both from the point of view of providing the maximum opportunity, in law, for the property standards officer to perform his task and from the point of view of providing maximum protection, in law, to the property standards officer from liability for unfortunate events which may occur during the course of his work. I would recommend this legislation to other jurisdictions interested in developing property standards legislation." (Letter of 1985-04-19 from Nadia Koltun, Deputy Solocitor, City of North York to R.L. Hale.

Some provinces (eg., New Brunswick) have achieved this uniformity by preparing a model bylaw and code for municipalities, whose use is mandatory for all municipalities opting to have an M&O bylaw unless the municipality seeks special provincial consent for variations.

At least one of the major studies prepared for the Province of Ontario holds that conditions throughout the Province are too varied for complete uniformity of standards of maintenance to be workable.[69]

From 1974 until the end of that decade the Province distributed a set of guidelines for the preparation of property maintenance and occupancy standards, but with a caveat that individual communities might wish to make modifications to suit local circumstances. Today, however, with so many examples being available from other Ontario communities, the Ministry of Municipal Affairs and Housing prefers to recommend that communities considering such a bylaw study those of other communities rather than be guided by a single model bylaw, and thus avoid the trap of adopting a bylaw not really well-suited to the particular community. On the other hand, Section 31 of the Planning Act outlines the correct legal procedures.

Among the features of Section 31 are the following:

- Before a municipality may adopt a property maintenance and occupancy bylaw, it must first:

  - either include provisions relating to property conditions in its official plan; or

  - if it has no official plan in effect, by bylaw approved by the Minister, adopt a policy statement containing provisions relating to property conditions.

  Since official plans must be approved by the Province, this means that the "provisions relating to property conditions" must go through a Provincial screen, even if M&O bylaws do not.

- A bylaw adopted under this section may be for the entire municipality or for "any defined area or areas."

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[69] Lawson, op. cit., p. 6, contains the following statement: "Before and during the study the question was raised of framing minimum standards of maintenance to be enforced uniformly throughout the Province. But the study revealed such a variation in conditions from one part of Ontario to another that a uniform set of standards would be meaningless in some areas and impractical in others. Some variation in local standards appears inevitable and not undesirable".

This issue of whether or not minimum housing standards should be uniform throughout a province is discussed further in the Manitoba section of this report. SEE pp. 65-67.

- Violation notices are required to be sent, not only to the owner of the property, but as well to: "all persons shown by the records of the land registry office and the sheriff's office to have any interest therein a notice containing particulars of the nonconformity and may, at the same time, provide all occupants with a copy of such notice."

  Several Ontario municipalities have reported that the sending of such notices to persons other than the owner (eg., the lender holding the mortgage) has in itself proven to be an effective compliance measure, as it results in pressure on the owner from another source.

- "Every bylaw passed under this section must provide for a property standards committee" eg., an appeals board. Appeals to a district judge are provided for as a final appeal.

  Experience with property standards ordinances virtually everywhere has shown that a workable appeals mechanism is a necessary adjunct to these bylaws.

- New language was added in the 1983 version conveying emergency powers on the PSO in instances where nonconformity with the bylaw standard exists to the point of posing an immediate danger to health and safety.

An interesting feature of the Planning Act is a provision, contained in Section 32, providing that a municipality having a bylaw under Section 31 in force may enact another bylaw providing for the making of grants or loans for the purpose of financing repairs required by the M&O bylaw. While, for the most part, Ontario municipalities have relied on the Provincial and Federal governments for rehabilitation financing, the existence of this section in the Act, as a companion to the section that empowers municipalities to enact M&O bylaws, is interesting in that it gives statutory recognition to the necessary linkage between enforcement of an M&O bylaw and the provision of financing for making necessary repairs. (The City of Winnipeg Act contains a similar provision.)

Still another section of The Planning Act is closely linked to Section 31. This is Section 33, which provides that a municipality having an M&O bylaw may designate any area where such a bylaw or standards are in force as an area of demolition control. This action would mean that no one in such an area may demolish a residential property without a demolition permit issued by Council.

Section 33 contains an appeal procedure, and also provides for issuance of a permit if the owner intends to build a new building on the site within two years time. It also provides that an application for a demolition permit operates as a stay to any proceeding that may have been initiated under an M&O bylaw.

Other Relevant Provincial Legislation

"Ontario has a remarkable wealth of legislation governing all forms of buildings...The effectiveness of existing legislation relating to buildings in Ontario is jeopardized by duplications, overlaps and conflicts".[70]

In all provinces there is provincial legislation other than that enabling the passage of M&O bylaws affecting the administration of such bylaws. The M&O bylaw must be administered with an awareness of how it relates to the building code, fire code, plumbing, health and electrical regulations, etc. Bearing in mind that Ontario's enabling legislation is not simply for housing maintenance and occupancy, but for property maintenance and occupancy, a few other acts get thrown in for good measure: the Theatre Act, the Occupational Health and Safety Act, the Day Nurseries Act and the Homes for Retarded Persons Act, to name a few.[71] Yet the Province itself perceives that this network of legislation is more complex than it needs to be, and that in addition to complexity and overlaps, there may also be conflicts of both substance and of jurisdiction, hence the commissioning of the McFadden, Marrocco and Parker report cited above, as well as of a companion report, prepared by the same firm in 1982, examining the relationship between the Fire Code, Building Code and Property Standards bylaws.[72]

In fact, the Province's concern over this multiplicity of legislation dates back at least to 1968 when a Committee on Uniform Building Standards for Ontario was appointed. At that time, there was no uniform building code throughout the Province. The report of the Committee, which was chaired by C.D. Carruthers, appeared in late 1969 and, among other things, led to the Ontario Building Code. This report was the first real attempt to consider the impact of all this regulation on the public and on administrative practices. The report emphasized the need for training for inspectors (but the emphasis was on new construction inspectors only) as well as the desirability of certification of inspectors, and thus can be seen as a forerunner of MITEC (SEE p. 49). While the report was adopted in principle by Cabinet, a recommendation to set up a Code Review Committee, which was to consider, among other things, whether "minimum maintenance standards for buildings and property" ... "should form part of a building code, and if so, to what degree",[73] was not implemented at the time. When, under the Davis government, the Building Branch was moved to the Ministry of Municipal Affairs and Housing, such a committee did take shape.

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[70] McFadden, Marrocco and Parker, Barristers and Solicitors, "Provincial and Municipal Legislation and Administration Relating to Buildings", Toronto, June 1983, pp. 61-62. This report was prepared for the Ontario Ministry of Municipal Affairs and Housing and for the Ontario Association of Property Standards Officers, Inc. (OAPSO). Estimates of the number of pieces of legislation controlling buildings in Ontario, especially where businesses are involved and laws such as the Hotel Safety Act and Liquor License Act come into play, range from 800 to 1 000.

[71] Ibid., pp. 63-64.

[72] McFadden, Marrocco and Parker, "The Relationship of the Fire Marshal's Act to the Building Code Act (and) Property Standards Bylaws passed pursuant to the Planning Act", May 1982 (Referred to in this report as the May 1982, McFadden Report).

Still another report which addressed the difficulties of the very many pieces of legislation affecting building was the report of Judge Webber's judicial inquiry into fire safety in high rise buildings, which followed the Inn-on-the-Park fire in Toronto in 1983.[74] This helped sensitize the legal profession to the difficulties inherent in so many different acts relating to building safety.

These complexities, overlaps and conflicts are thought by some to constitute problems not only for PSO's, but for those administering building codes, as well as for those responsible for all the other regulations. Others disagree (SEE below). It is well beyond the scope of the present report to explore the details of these relationships or to suggest specific solutions. That was why the two McFadden reports, and the Carruthers Report before them, were commissioned. But the reader of this report should, at the least, be aware that these complex interrelationships do exist, and that they create a situation where "municipal and provincial inspectors must have an almost impossible breadth of knowledge to be aware of all the other authorities and their jurisdiction in relation to building standards".[75]

It should be brought out, in this report, however, that the two McFadden reports bring out that there is potential for rather serious conflicts between the Fire Marshal's Act (and accordingly the Fire Code) and both the Building Code and property standards bylaws.

It appears that the Fire Code draws heavily on the Building Code, yet applies the standards to existing structures. Yet whether these are the standards contained in the Building Code that existed at the time the building was constructed, or those contained in the present Building Code is not clear, according to McFadden. It also appears that anyone doing "construction" requiring a building permit ("construction" including repairs) takes the building outside of the grasp of the Fire Code.[76]

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[73] Carruthers, C.C., et al, "Report of the Committee on Uniform Building Standards for Ontario" prepared for the Ministry of Municipal Affairs, Ontario, November 1969, p. 13.

[74] Webber, the Hon. John B., "The Report of the Public Inquiry into Fire Safety in High-Rise Buildings," prepared for the Hon. George W. Taylor, Solicitor General, Ontario, December, 1983.

[75] Wilson D., critique (unpublished) of June 1983, McFadden Report. Mr. Wilson is Vice-President of OAPSO and Chairman of its Legal Committee.

[76] June 1983, McFadden Report, p. 30.

Of particular concern to PSO's is Section 18 a(4) of the Fire Marshal's Act, which states that, "The fire code supersedes all municipal bylaws respecting fire safety standards for buildings and other structures." This is seen as directly undercutting the authority of property standards bylaws and their administering officers.

This conflict between the Fire Marshal's Act, on the one hand, and the Building Code Act and M&O bylaws, on the other, was unresolved at the time of this writing and is a source of concern to PSO's. In a number of municipalities they happen to have been resolved fairly well at the local level, but they have not been resolved at the provincial level.

While the recommendations of the June 1983 McFadden Report go far beyond the field of property standards administration, they are summarized here, as they are nonetheless relevant to the maintenance of existing housing.

The introduction to the recommendations states that "the effectiveness of existing legislation relating to buildings in Ontario is jeopardized by duplications, overlaps and conflicts".[77] The report goes on to put forward six recommendations, which are summarized as follows:

1. All regulations relating to building systems structures and materials should be consolidated under the Building Code.

2. Noting that the plethora of legislation has led to a variety of different types of inspectors at the provincial and municipal level, it recommends "that inspection and enforcement of all provincial legislation relating to building maintenance and standards be delegated to municipalities, except in case of municipalities which do not have adequate administrative structures or competent staff to carry out the work required".[78]

3. It recommends there be only two classes of inspectors:

    - those dealing with new construction and renovations requiring a building permit under the Building Code; and

    - those dealing with all inspections of existing buildings regardless of building type or use.

    They suggest, further, that there could be two categories within each class, one dealing with small building of three stories or less; the other with buildings of four stories or more.

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[77] Ibid., p. 62.

[78] Ibid., p. 64.

4. The report recommends, for small municipalities lacking the resources for an adequate inspection system, that the county level of government assume responsibility. This has been recommended by the County of Bruce Planning Department as cost effective and efficient. In at least one other province - Nova Scotia - such a consolidated approach is used, at least for M&O bylaws, with good results. Incidentally, provision for joint administration, at least of the Building Code, is made in Sections 3(3) through 3(5) of the Building Code Act, and Section 3(6) provides for provincial enforcement.

5. It was recommended that a certification and training program for inspectors be put in place.

6. Finally, the report, recognizing the potential for conflict between the Fire Marshal's Act, on the one hand, and the Building Code Act and local property standards bylaws, on the other, recommended improved lines of communication. One of the ways this can be achieved, the report suggests, is through cross representation. Thus, the appointment of fire officials to the staff of the building departments in Scarborough and Barrie has been effective, and other municipalities should follow suit. In addition, PSO's and building officials should be appointed as fire officials.

Following on the thrust of the McFadden Report, the Province in 1984 established a Steering Committee on Regulatory Reform, to provide the Buildings Branch of the Ministry of Municipal Affairs and Housing "guidance in the following policy areas:

- Consolidation and streamlining of existing legislation related to buildings

- Elimination of the non-safety aspects of The Building Code regulatory requirements

- Examination of the building code amendment process with the view to recommending more appropriate procedures

- To better and more expeditiously provide for the use of technological innovation

- On such other matters as policy recommendation may be desirable

Supporting this Steering Committee in its work will be the Policy and Research Unit of the Buildings Branch of the Ministry."[79]

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[79] Ontario Association of Property Standards Officers, "Newsletter", Issue No. 36, November 1984, p. 3.

There is a danger, however, in addressing what are perceived to be duplications among building regulations. This is that certain types of regulations, codes or bylaws are perceived to duplicate one another when, in fact, they do not. In Ontario this danger appears to have manifested itself in concrete fashion through a reported failure on the part of some officials to appreciate the difference between an M&O bylaw, on the one hand, and a Rehabilitation or Renovation Code or Guideline, on the other.[80] It has been argued that, now that Ontario has come out with its renovation guidelines, in the form of Part 11 of the Ontario Building Code, it now has regulations regarding existing buildings, and the question of whether property maintenance and occupancy bylaws are therefore redundant has also been raised. This argument fails to recognize that the two types of regulation are quite distinct, in that Part 11 of the Ontario Building Code will only come into play when renovation is actually undertaken, and is not retroactive. That is to say, the renovation guidelines have no force where the municipality seeks to require a pre-existing defect in a building to be corrected.[81]

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[80] See pp. 4-5 of this report, where the two are defined.

[81] This is not to say that renovation guidelines and property maintenance and occupancy regulations cannot be combined. Indeed, the leading proprietary codes organization in the U.S., the Building Officials and Codes Administrators International, Inc. (BOCA), in 1984 published "The BOCA Basic/National Existing Structures Code", described as "model regulations for the protection of public health, safety and welfare in existing buildings". This new model code represents, in effect, a marriage between the "1978 BOCA Basic Property Maintenance Code", eg., the organization's model M&O bylaw, and the "Rehabilitation Guidelines" published by the U.S. Department of Housing and Urban Development (HUD) in 1980.

But what BOCA has done has been to combine the features of the two types of regulations into a simple document. They have not simply stated that the "Rehabilitation Guidelines" alone can serve in the stead of property standards bylaws.

It must be noted, as well, that BOCA's model code is a far more complex document than an M&O bylaw that does not attempt, as well, to be a set of rehabilitation guidelines. As such, it might be substantially more difficult to win support for its adoption in a community new to M&O bylaws. In this respect, attention is drawn to the comment of the Province of Newfoundland official who deplored the fact that Part IX ("Housing and Small Buildings") of the NBC is no longer published separately, because the NBC in its entirety tended to frighten off officials from small communities.

Still another difficulty in combining the two sets of regulations at the provincial level would be that the capacity of enabling municipalities to tailor their M&O bylaws to local circumstances, which Ontario officials

(Continued)

It would, thus, be ironic if in Ontario, the province that is the acknowledged leader with respect to M&O bylaws, such a point of view were permitted to undermine much of the progress that has been made over the years with respect to M&O bylaws.

It has also been suggested that overlaps in legislation can sometimes work to a property standards officer's advantage, in that certain health and fire codes have more "teeth" than M&O bylaws, and that the involvement of hydro, fire or health officials will sometimes expedite repair work and avoid lengthy court proceedings.

The authority for enacting certain other bylaws which frequently must be used by PSO's stems not from The Planning Act, but from The Municipal Act. Thus, to cite a few examples:

- Section 210.18 authorizes bylaws prescribing "the height and description of lawful fences".

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[81] Continued
responsible for such bylaws believe to be important, would be jeopardized were a single document addressing both purposes drawn up at the provincial level.

Still further, one has to recognize that there are jurisdictional considerations that must be weighed. If these two types of regulations were to be blended into a single document, it would seem to be virtually impossible not to have each component administered by the same unit - in this case, presumably, building inspection, inasmuch as the renovation guidelines are a chapter of the Building Code.

A number of municipalities are leaning towards the multi-purpose inspector, where one person is trained to carry out all, or virtually all, building-related inspections. Other municipalities maintain, just as strongly, that the work of a property standards officer involves skills not required by a building inspector, and vice versa, and that the two functions are best kept separate, provided the municipality has a good coordinating mechanism.

It is beyond the scope of this report to attempt to adjudicate the respective merits of these two positions. What is important here is that the reader clearly understand that there are often jurisdictional overtones to discussions of regulatory overlaps and to proposals to combine certain sets of regulations or to create new regulations which may supercede existing regulations, yet give jurisdiction to someone different.

Nevertheless, none of this is to say that there might not be merit in combining rehabilitation guidelines and an M&O bylaw in given municipalities. It will be worthwhile to observe U.S. experience with the new BOCA model code over the next few years.

- Section 210.23 concerns requirements for fences around swimming pools.

- Section 210.171 authorizes pulling down buildings in "ruinous or dilapidated state". Most provinces have similar enabling legislation enabling municipalities to deal with dangerous and unsightly buildings. Quite often such legislation was in place before legislation making possible enactment of M&O bylaws, and quite often the dangerous and unsightly buildings bylaws (or bylaw of equivalent name) contain stronger remedies than M&O bylaws since they address more hazardous circumstances. Section 10 of the Building Code Act also covers the matter of unsafe buildings.

- Sections 173 and 174 enable passage of bylaws relevant to termite infestation, and bylaws enabling municipalities to make grants and loans for termite control or repair of termite damage. This is important in the Toronto region, where termites are now a real problem.

Not only does the Municipality Act contain authority for companion bylaws, but it contains a section ("Part XIX, Penalties and Enforcement of Bylaws") much of which relates to bylaws "passed under the authority of this or any other general or special Act".[82] Specifically, the power of courts to prohibit the continuation or repetition of an offence, in addition to any penalty imposed by the bylaw, is authorized by Section 326, and the power of the municipality to correct the violation itself and recover costs through legal action is contained in Section 325.

The Municipal Act also contains, in various parts of Section 210, much language regarding fire or fire safety, much of which may be considered superseded by the new Fire Code.

Another class of provincial legislation with which a PSO in Ontario must be familiar consists of those pieces of legislation setting forth the enforcement procedures which must be utilized in the enforcement of standards contained in M&O bylaws. Section 31 of the Planning Act goes into this area, as does Part XIX of the Municipal Act, which covers penalties as well as enforcement of all bylaws authorized by that Act, and in some cases any other general or special Act. This includes enabling the municipality to correct the violation itself, and recovering the cost, either "in like manner as municipal taxes", or in annual payments, with interest, over a period of no more than ten years (Section 325). Part XIX also contains the power to restrain a person from the continuation or repetition of the offence (Section 326 and 327).

The Provincial Offences Act is integrally related to the enforcement in that enforcement of Section 31(22) of the Planning Act, which states that someone who has failed to comply with an order of the PSO is guilty of an offense and on conviction liable to a fine, is secured through Sections 3 and 24 of the Provincial Offenses Act, which allow the municipality to "lay an information", which serves to bring the case into court.

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[82] Municipality Act, Part XIX, Section 325 and 326, R.S.O. Ontario 1980, c. 302, s. 326.

Another linkage between the Planning Act and the Provincial Offenses Act occurs in relation to inspections and right of entry. Section 31(4) of the Planning Act establishes the right to enter and inspect property, yet Section 31(5) qualifies this right by stating that except under the authority of a search warrant issued under Section 142 of the Provincial Offenses Act[83] no entry can be made without the consent of the occupier, who must have been informed that right of entry may be refused in the absence of a search warrant. This section of the Planning Act was amended in 1983 in light of the search or seizure clause of the Canadian Charter of Rights and Freedoms[84].

Ontario's Landlord and Tenant Act contains clauses relating to responsibility for dwelling condition. "These obligations may be enforced by a summary application to a judge, who may terminate the tenancy, authorize a repair that was made or is to be made, and order the cost payable by the party responsible, or make such other order as he considers appropriate."[85] I have been informed, however, that these clauses are not actively utilized, except where a landlord attempts a major rent increase and the tenant can argue that the dwelling's condition does not warrant it. It seems that, what with the large number of municipalities in Ontario with active M&O bylaw programs, tenant grievances over the condition of their dwellings are more likely to go the M&O bylaw route.

Provincial Attitude Regarding CMHC's Role with M&O bylaws

What with Ontario's established leadership with respect to M&O bylaws, provincial officials appear to believe that there is not really any particular role that CMHC should be playing in that province. They do agree, however, that where CMHC has money invested, as through the RRAP program, it has the right to ask that the necessary legislation be put in place, and further, to set forth how M&O bylaws are developed and administered in various parts of the country and elsewhere as a guide to communities not yet active with such programs.

The Ontario Association of Property Standards Officers (OAPSO) has views regarding the Federal role, as well. Their view of CMHC involvement with M&O bylaws is intertwined with their view of federal financial assistance for rehabilitation, which they would prefer to see channelled through the provinces. They believe, as well, that the federal level can play a constructive role in influencing the private sector to provide more rehabilitation financing. They go on to say:

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[83] For excerpts from Provincial Offenses Act, SEE Appendix "B".

[84] Constitution Act, 1982, Part I, Canadian Charter of Rights and Freedoms, "Legal Rights", Section 8 reads as follows: "Everyone has the right to be secure against unreasonable search or seizure."

[85] Stratford, Louise A., "Residential Tenancy Legislation: A Cross-Country Survey," Residential Treasury Commission (Ontario), Toronto, 1982, p. 41.

> It is evident that the development of adequate maintenance and rehabilitation programs at the municipal level will take many years to achieve and be held at a low priority level unless there is some direct incentive to do otherwise. The only possible source of this incentive is a coordinated federal/provincial effort to stimulate municipal activity. In general, the feds can create conditions to stimulate the provinces who in turn can create conditions to stimulate the municipalities.
>
> The RRAP Program demonstrated that the federal government is prepared to provide direct funding for rehabilitation. The factors needed for rehabilitation would indicate that the incentive derived by funding should be directed to the municipalities rather than individual property owners. This can be achieved most effectively through provincial housing departments or agencies. The funding to the provinces would be conditional upon:
>
> a) enactment of provincial legislation to permit municipalities to develop maintenance and rehabilitation programs to their fullest extent;
>
> b) provide personnel to administer the provincial involvement in this activity including activities in the unorganized territories;
>
> c) provision of financial policy and assistance related to:
>
> 1. clarification of assessment values related to maintenance and rehabilitation of private property;
>
> 2. possible assessment exemptions for a period of time (5 years);
>
> 3. financial aids, supplementary to federal funding, to assist special groups - ie. rural and native groups, senior citizens, handicapped, unorganized and underdeveloped territories all of which vary widely in the different provinces;
>
> d) evidence that a municipality has made a commitment, adopted bylaws (standards of maintenance and generating of local funding), hired personnel and subscribes to training and development of maintenance and rehabilitation.[86]

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[86] Ontario Association of Property Standards Officers, "Rehabilitation and Maintenance of Property", August 1979, pp. 34-35.

In effect, OAPSO appears to be arguing that municipalities should be given far more latitude to develop their own programs, but that this should be in exchange for their being expected to develop their own strategies for the maintenance and conservation of their housing stock. In their own words:

> The above suggests a new role for federal and provincial governments, but one which recognizes the need to develop the factors which are essential to property maintenance and rehabilitation; which can exert an influence on their development; which avoids cyclical changes in programs; which reduces the amount of federal money involved; avoids the constitutional problem of the federal government dealing directly with the municipalities; and focuses the development of property maintenance and rehabilitation on the municipalities which stand to gain the most as compared to the senior levels of government.[87]

Summary

With some 215 communities with M&O bylaws (notwithstanding that many of these do not administer their bylaws actively), with a long history of provincial study and encouragement of the use of such bylaws, and with what is probably the only professional association devoted entirely to the administration of M&O bylaws in all of North America, Ontario is the most active province in this field.

Toronto's maintenance bylaw dates back to 1936. As early as 1958, the Province embarked on a study of housing conservation approaches which found that a collection of miscellaneous codes and regulations covering health, fire safety, building, plumbing and electrical systems were no substitute for a comprehensive set of regulations covering all aspects of housing conservation. The report of this study, plus the 1970 report, "The Maintenance of Property - A Program for Ontario", not only led to the enactment of Ontario's enabling legislation in 1964, and to subsequent modifications which make it the most comprehensive in the country, but have also influenced other provinces.

From the urban renewal days to the present, the Province has made having a property maintenance and occupancy bylaw (or at least maintenance and occupancy standards) a prerequisite for a number of its housing programs, but while it has encouraged the active administration of such bylaws, it does not seem to have required it: hence the spread between the number of municipalities with such bylaws and those administering them vigorously.

Because of the wealth of Ontario legislation governing all forms of buildings, Ontario has commissioned several studies to examine the complexities, overlaps and possible conflicts among these various pieces of legislation. A danger arises, however, where an overlap is perceived to occur when in fact it does not. There has been a perception reported among certain officials that the recently adopted renovation guidelines which are now incorporated into the Ontario Building Code render redundant M&O bylaws, since both deal with existing structures. This line of reasoning fails to recognize that renovation guidelines alone (unless maintenance and occupancy provisions have been "woven in" explicitly) have no force where a municipality seeks to require a pre-existing defect in a building to be corrected.

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[87] Ibid., p. 35.

It would, thus, be ironic if in Ontario, the province that is the acknowledged leader with respect to M&O bylaws, such a point of view were permitted to undermine much of the progress that has been made over the years with respect to M&O bylaws.

MANITOBA

Perhaps because of the fact that Winnipeg is the oldest city in Western Canada,[88] there has been provincial legislation making possible municipal inspections of existing buildings since the mid-1950's.[89]

Since 1970, however, the Province has had rather detailed enabling legislation, permitting all municipalities to adopt M&O bylaws, dangerous building bylaws and unsightly premises bylaws. The enabling legislation contains compliance and appeals procedures, permits the municipality to advance to the owner the cost of repairing non-complying buildings, to attach a lien to the property where this is done, and to recover costs. It also provides for notifying mortgagees and others with an interest in the property prior to undertaking certain compliance steps, much as provided for in the Ontario Planning Act.[90]

Since the great bulk of M&O activity in Manitoba takes place in Winnipeg, this chapter will deal with the framework for this activity in that city first, and since the vast majority of M&O bylaw activity in Manitoba takes place in Winnipeg. For these reasons, somewhat more space will be devoted to discussing the Winnipeg situation in this paper than has been given to other Canadian cities drawing their M&O bylaw powers from their own charter.

Enabling Legislation and Regulations for Dealing with Existing Building in the City of Winnipeg

While a number of the larger Canadian municipalities draw their power to adopt and administer their M&O bylaws from their individual city charters rather than from provincial enabling legislation applying to all communities, just as Winnipeg does, the latter's programs to deal with conditions in existing buildings are perhaps more tightly intertwined with other provincial legislation than elsewhere. As an example, the City's first major venture into inspection of existing residential buildings related not to the Minimum Standards of Maintenance and Occupancy clauses of the City of Winnipeg Charter (Section 640 through 652), which were not enacted until 1971, but rather to 1956 regulations stemming from the Public Health Act, which

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[88] Brown, John R., et al., "A Better Place to Live", Second Interim Report, Ontario Department of Municipal Affairs, Toronto, 1961, p. 60.

[89] The Municipal Act, R.S. Manitoba, 1954, C.173; the Public Health Act, R.S. Manitoba, 1954, C.211; The Winnipeg Charter, as consolidated and revised by Statutes of Manitoba, 1956, C.87 (as amended 1960); the Metropolitan Winnipeg Act, Statutes of Manitoba, 1960, C.40.

[90] Sections 298-306 inclusive, Municipal Act. These sections are reproduced in Appendix "A".

"established a province-wide set of standards regarding sanitary and health conditions to provide a very basic housing code for all inhabited premises occupied by rental tenants."[91]

More recently, city inspectors have administered provincial fire safety regulations, the inspectors serving as designees of the Province in performing these duties.

Returning now to the first major Manitoba legislation in this area - and more specifically the regulations under the Public Health Act - the principal inspector of the Housing Division of the Winnipeg Health Department described these regulations, and their application in Winnipeg, in glowing terms;

> The Manitoba Regulations, tested in the crucible of enforcement, have no parallel, in any other province or any state in the U.S.A. It should be relatively apparent that it is undesirable to have minimum housing standards which vary from municipality to municipality, each local bylaw reflecting the peculiar whims of local officials and politicians. Manitoba has proved the workability of regulations pertaining to housing created at the provincial level for enforcement by municipal employees.
>
> (....) [The regulations] are enforceable, even including the most recent requirement of June 1960 that every rented house contain a bath, lavatory, basin and hot water supply in addition to the toilet, sink and cold water supply previously required. (....)
>
> You will recall that this Department issued a report in June 1961, reporting that in house-to-house inspections in the central part of the City we had inspected 324 houses and that 200 of them contained violations of the health regulations. We have just completed our first re-check of these 200 houses and find full compliance of the health regulations in 103 (including several demolitions) and partial compliance in 45. The electrical, building, and fire inspectors have acted on our referrals and although we have not been keeping score on the remedying of safety hazards, we do know they are making good progress.

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[91] Manitoba Regulation 53/56 (as amended by 821/60) pursuant to the Public Health Act, R.S. Manitoba, 1954, C.211; SEE also Manitoba Regulation 6/54, pursuant to the same Act.

> (....) [The house-to-house] program is novel for the following reasons: It is not merely a survey for the purpose of gathering information: it is a program to find health hazards and remedy them, not in the nebulous future but now. It is a program to actively enforce the most exacting health regulations in Canada, uncrippled by recognition of any pre-existing non-conforming rights. It is a program being carried out solely by public health inspectors, other kinds of inspectors becoming involved only when specific referrals are made to them by the Health Department. (....) Finally, there is the novelty of our public health inspectors directing as much of their effort to the finding of hazards to safety as to the discovery of hazards of health.
>
> Any success that we have had in housing inspection in Winnipeg can be attributed primarily to a re-organization of the health inspection services in this City in 1955. Since that time Winnipeg has been the only Canadian city with a group of public health inspectors devoting their full time to housing without the distraction of any other duties or responsibilities.[92]

The predominant role of the Health Department in administering housing maintenance and occupancy regulations was not at all uncommon in the 1950's and early 1960's. In the U.S., housing codes in several major cities (eg., Birmingham, Alabama and Pittsburgh, Pennsylvania) are still administered by City or County health departments and in the U.K., to the extent that there is a counterpart, house condition inspections are conducted by public health inspectors.

The Ontario report, containing the above testimonial by Winnipeg's principal inspector to the Manitoba Health Regulations, made the following comment regarding the use of the same provincial standards throughout the province:

> By using provincial regulations, the practice of avoiding standards by moving from one municipality where the requirements are high to one where there are none could be avoided. Obviously, the effectiveness however depends on each municipality's willingness to ensure that housing conditions are not permitted to deteriorate and that the provincial regulations are recognized and put into effect. Having provincial regulations also lessens the pressure on local authorities to downgrade standards to meet the prevailing conditions.[93]

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[92] George W. Kelly, Principal Inspector, Housing Division, Health Department, City of Winnipeg, in a letter of 30 November 1961, cited in: Brown, John F., et al., "A Better Place to Live", Final Report, Ontario Department of Municipal Affairs, Toronto, 1962, p. 44.

[93] Brown, J.F., op. cit. ("Final Report"), p. 44.

On the other hand, a later (1970) study prepared for the Ontario Department of Municipal Affairs reached quite a different conclusion regarding uniform standards of maintenance throughout a province:

> Before and during the study the question was raised of framing minimum standards of maintenance to be enforced uniformly throughout the Province. But the study revealed such a variation in conditions from one part of Ontario to another that a uniform set of standards would be meaningless in some areas and impractical in others. Some variation in local standards appears inevitable and not undesirable. The bylaws, in any event, generally list the items to which they apply and name an official who will decide when these are in good enough condition. For these reasons, and because it was concluded that it was unwise to adopt rigorous enforcement procedures, the idea of framing universal minimum standards of maintenance was dropped.[94]

Ontario continues to hold this position. Nevertheless, a certain degree of consistency is maintained throughout the Province of Ontario by virtue of the greater specificity of that Province's enabling legislation.

Another approach to the question of uniformity is found in New York State, where there is both a Multiple Dwellings Law, which applies only to cities of over 500 000 population (which is to say, Buffalo and New York City) and a Multiple Residence Law, which applies everywhere else in the state. Regulations for smaller residential buildings are left to the municipality to enact. All are administered by the municipalities.

The issue is a timely one, since the recent Quebec Green Paper, "Se loger au Québec," proposes a new "Code de la sécurité" which would contain structural, health, fire safety and accident prevention regulations applicable to all existing residential buildings of more than two stories or eight dwellings. The green paper also proposes a set of minimum habitability requirements applicable to all residential buildings in the Province.[95]

Winnipeg's first ventures into the inspection of existing dwellings, then, were by way of the Public Health Act, the housing regulations stemming from it, and the City Health Department. About ten years ago, however, following an apartment house fire in which nine persons lost their lives, the City of Winnipeg initiated a program specifically designed to reduce apartment house fire hazards. An "Existing Apartment Buildings Improvements Bylaw No. 1046/75" was adopted by Winnipeg City Council in August 1975.[96] This bylaw was administered by the Existing Buildings Section of the Building Inspections Division of the Department of Environmental Planning. Systematic inspections of apartment buildings were carried out, sequenced by the decade in which the apartment building had been built.

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[94] Lawson, op. cit., p. 6. SEE also pp. 50-51 of the present report for further discussion of this issue.

[95] SEE pp. 43-45.

[96] City of Winnipeg, Department of Environmental Planning, "History of the City of Winnipeg's Efforts to Improve the Fire Safety in Existing Residential Buildings," January 1981 (unpublished), p. 2.

This bylaw contained 17 guidelines for fire safety, and there was "no question that many owners faced economic hardship when they received these upgrading orders, and they voiced their objections. Ordinarily, this resistance might have been sufficient to kill the program, but in February of 1976, there was another disastrous apartment building fire taking five lives. This created a great deal of support for the program and if any criticism was forthcoming, it was that the program was too slow ..."[97] Still further, there were a couple of fires in buildings which had been upgraded under the program, and here, not only did the automatic fire alarms operate, but because of two separate and properly enclosed means of egress, no lives were lost.

Still another fatal fire took place in early 1977 in a building that was clearly a multi-family residential building, but there was some question of whether it was a full-fledged "apartment" building or not. Hence, the bylaw was amended to make it clear that it referred to all residential occupancies other than one and two-family houses. The amended bylaw, enacted in June 1977, was called the "Existing Residential Buildings Improvements Bylaw, No. 1617/77." The program, still basically concerned with fire safety only despite the name of the bylaw, continued much as before.[98]

Compliance requirements were stringent, both in terms of what was required (automatic fire alarm system, emergency lighting, fire-resistant surfaces, fire doors, etc.) and in terms of the time allowed to correct deficiencies (one year or less). This, coupled with the financial position of many landlords due to such factors as the absence of suitable rehabilitation financing, rent control and overfinancing of some of the buildings, served to cause "the spectre of wholesale abandonment, particularly in poorer areas," to become a reality.[99] The fact that, once vacated and secured, a building was deemed to be in compliance, also contributed to abandonment.

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[97] Ibid., p. 3.

[98] Ibid., p. 3.

The City has subsequently addressed the problem of abandonment by coming out, in 1983, with a second edition of the Existing Residential Buildings Improvements Bylaw, No. 3518/83 which addresses several of the problems cited above by:

- no longer tying all corrections to new construction standards;
- providing alternate means of achieving life safety objective;
- permitting improvements to be carried out in three phases, over a period of five (rather than one) years.

In addition, substantially enriched rehabilitation financing has been made available through the City's Core Area Initiative. The additional subsidy is stacked on RRAP.

Thus, most if not all of the circumstances which drove many landlords to abandon their buildings no longer exist, but some of the polarization that resulted from this experience lingers on, and is reflected in difficulties still experienced in administering the City's Maintenance and Occupancy Bylaw, No. 3518/83. One other cause of landlord irritation should be mentioned: the Existing Apartment Buildings Improvements Bylaws and the Existing Residential Building Improvements Bylaws were, as noted above, fire prevention bylaws only, despite their titles. Thus, when M&O bylaw inspectors subsequently made demands on the owners of buildings already brought into compliance with these earlier bylaws for improvements no related to fire safety, many landlords were irritated with further requirements being made on them.

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[99] Frenette, Sybil, "Conservation: Strategies for Selected Older Neighbourhoods," Winnipeg, Institute of Urban Studies, Aug. 1979, p. 46. Ms. Frenette's study contains several excellent sections on bylaw enforcement, which describes some of the hazards of M&O bylaw enforcement if not carried out within the context of a more comprehensive housing conservation strategy.

The abandonment of many of Winnipeg's rental dwellings has also be documented in:

i) City of Winnipeg, "Apartment Loss Study", October 1978; and
ii) Feduniw, Tim, et al., "Building Abandonment Study: Winnipeg's Inner City," sponsored by the Institute of Urban Studies for Young Canada Works, August 1979. This study showed 209 buildings, of which 177 were residential, and a total of 685 dwellings, to be abandoned. A computerized inventory maintained by the City showed that by 1983 the figure had grown to some 450 buildings.

While Winnipeg has, as we have described on pp. 61-63, had early experience in administering provincial health regulations that were felt to be tantamount to an M&O bylaw, it has also had, as noted earlier in this chapter, an M&O bylaw of its own since 1974, the year in which Winnipeg became active with NIP and RRAP.

Authority for this bylaw stems from Sections 640 to 651 inclusive, of the City of Winnipeg Act,[100] which were enacted in 1971, but have been amended several times since then. One of these amendments was to make it clear that an inspector can be someone designated either by the supervisor of building inspections or by the medical officer of health. Another expands the enabling legislation to reference non-residential as well as residential buildings (although Winnipeg's M&O Bylaw No. 763/74 as amended, is still limited to residential properties). A third amendment, made in 1974 and picked up in the City bylaws in 1977, expands the definition of an "order" to include the vacation of a building, whereas previously an order would have been only to repair or demolish.

Regarding the latter provision, some City officials expressed the view that permitting property owners to achieve "compliance" through vacating a building rather than by removing the violation constitutes an impediment to effective enforcement, and an internal report had recommended that the City be given the power to demolish a non-complying building that had been vacant over six months.[101] I was told that such a change would require a modification of the enabling legislation, that is to say, the City Charter. I did get the impression that some municipal officials felt limited by the Province in this regard. The City's attorneys have advised that, under existing enabling legislation, the City cannot require repairs to be made in a structurally sound, boarded-up, building. As there were some 450 vacant buildings - most of them residential - in the City's computerized inventory at the time of my 1983 visit, this was a reasonably major issue.

The provincial health regulations and the M&O bylaw are used somewhat interchangeably, depending for the most part on which agency is making the inspection (SEE previous paragraph). Within the Core Area, inspections are made, using the M&O bylaw principally, by the Neighbourhood Improvement Division of the Department of Environmental Planning. In other portions of the "old" city, the City Health Department makes inspections, mainly utilizing the provincial health regulations, and in the more recently annexed parts of Metro Winnipeg, provincial health inspectors make inspections using the same provincial health regulations. At the time of my 1983 visit, there was a debate, within City Council, as to whether or not city staff should be enforcing the health regulations throughout the entire city.

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[100] These sections of the City of Winnipeg Act are reproduced in Appendix "B".

[101] Interview with City of Winnipeg officials, 1983-07-07.

The manner in which the M&O bylaw is being administered within the Core Area is of particular interest. Housing inspection and social service staff have been merged into a program entitled Core Area Residential Upgrading and Maintenance Program (CARUMP), to accommodate the relocation and social service needs of tenants. The program operates in specific areas where all substandard houses can be inspected on a systematic basis, and where necessary, ... skills are taught by a homemaker/teacher. Specific bylaw enforcement action is attempted only where all other viable alternatives have been tried.[102] As noted earlier, substantially more RRAP - and RRAP enriched by Core Area Initiative funds - have been made available to encourage and finance necessary repairs.

M&O Bylaws Elsewhere in the Province

Since, quantitively, the bulk of M&O bylaw activity has been in the City of Winnipeg, the bulk of the discussion in this chapter so far has been with activities in that City, the major exception being the provincial health regulations which, in effect, virtually constitute a provincial maintenance and occupancy code.

While the author does not, with the exception of one community, have detailed knowledge of activity in all communities further to Sections 298-306 of the Municipal Act, it is known that, at least, all Manitoba communities, using the Urban RRAP program have M&O bylaws. These include, in addition to Winnipeg:

- Brandon
- The Pas
- Flin Flon
- Portage la Prairie.

The City of Portage la Prairie (1981 population, 13 000) has had an M&O bylaw since 1978, and administers this bylaw with just the service-oriented, personalized, approach that typifies how an M&O bylaw can be administered effectively in a small community.[103]

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[102] The CARUMP program was described in somewhat more detail in Hale, op. cit., pp. 34-36. SEE also:

- City of Winnipeg, "CARUMP 1984 Annual Report", and
- City of Winnipeg, Department of Environmental Planning, Neighbourhood Improvement Division, "A Status Report on the Neighbourhood Improvement Division, Department of Environmental Planning," 1984-11-01.

[103] The Portage la Prairie housing improvement program is described in Appendix "D".

The Province's Role

While the Province sponsors a purchase/rehabilitation program and has also done some interesting work involving moving and rehabilitating houses that were in the path of a new bridge in Winnipeg, it does not appear to play an active role with respect to M&O bylaw programs (except in the City of Winnipeg where it has been in active partnership with the federal and the municipal governments with respect to the Core Area Initiative).

I was informed that there is no requirement for a municipality to obtain provincial authorization before adopting an M&O bylaw under Sections 298 through 306 of the Municipal Act. Municipalities are expected to be guided by their own solicitors in seeing to it that the bylaw conforms with the enabling legislation. Nor is there a requirement that the Province be notified when an M&O bylaw is adopted, as there is nothing in the Municipal Act requiring such notification.

As for training, there is a programmed learning course, complete with examinations, having to do with Part 9 (small buildings) of the National Building Code. Fees are charged, and students must pay for course materials, as well. The course, which is available from the Manitoba Department of Labour, has two levels:

- housing
- small buildings other than housing.[104]

There does not appear to be any specific focus, in this training, on inspection of existing buildings.

Summary

The Province of Manitoba has been involved in the inspection of existing residential buildings since 1954, when the Public Health Act was amended to provide for the drawing up of regulations which are virtually tantamount to an M&O bylaw. There has also been enabling legislation for municipal M&O bylaws - province-wide and for the City of Winnipeg specifically - since the early 1970's.

The greatest amount of M&O activity is, as would be expected, in the City of Winnipeg, which is carrying out an innovative program in its core area. Only four other Manitoba communities are known to have M&O bylaws.

While the Province appears to have provided quite adequate enabling legislation, there is little evidence that it has taken a pro-active role with respect to encouraging or helping municipalities administer their M&O bylaws. It does, however, play a role in the maintenance of existing housing through administration of the regulations under the Public Health Act.

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[104] Memorandum of 1985-01-15 from C.R. Anderson to Tom Yauk (Winnipeg Neighbourhood Improvement Division Coordinator).

SASKATCHEWAN

Limitation of Early Enabling Legislation

Saskatchewan has had enabling legislation directed at empowering municipalities to adopt M&O bylaws since 1973, under Section 30 of the Saskatchewan Housing Corporation Act,[105] which reads as follows:

Power of municipality to pass bylaws

> 30.-(1) A municipality may by bylaw do any act or thing necessary for the municipality to carry out this Act and, without limiting the generality of the foregoing the municipality may, by bylaw:
>
> (a) prescribe standards for the maintenance and occupancy of property and for prohibiting the use of property that does not meet the standards;
>
> (b) require property that does not meet the standards prescribed in the bylaw to be repaired and maintained so as to meet the standards, or require property that does not meet those standards to be cleared of all buildings or structures and left in a graded and levelled condition.

On the surface, it would seem that this language would be all that was necessary to enable municipalities to adopt satisfactory M&O bylaws, and indeed, this provincial legislation was used as the legal basis for M&O bylaws adopted in connection with CMHC requirements for the Neighbourhood Improvement Program (NIP) and the Residential Rehabilitation Assistance Program (RRAP). Thus, for example, the City of Regina enacted Bylaw 5588 (an M&O bylaw) in August 1975. But the fact is that, as will be described below, this legislation was seriously flawed.

It is of considerable interest to note that Regina, unlike the principal cities in a number of other provinces (Vancouver, Toronto, Winnipeg, Ottawa, Montreal, Charlottetown), had no city charter of its own under whose authority it could enact its own M&O bylaw. The city charters of both Regina and Saskatoon were repealed by provincial legislation in 1908.[106] This means that as the City of Regina evolved from a position of only marginal interest in having an effective M&O bylaw to a strong interest, as will be described on the following pages, it had to seek enabling legislation which would apply to the entire province, and not just to the city itself. For this reasons, it seemed important to delineate in this report the experience of the City of Regina leading to its making representations to the Province for more effective enabling legislation.

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[105] The complete text of Section 30 of the Saskatchewan Housing Corporation Act appears in Appendix "A".

[106] The reference for the Act repealing Regina's charter is 1908 c.39; for Saskatoon's, 1908 c.41.

Other principal cities in other provinces have, as their housing stock grew older, followed the same route of developing increasing recognition of the need for adopting and administering M&O bylaws, but historically, they were able to use the powers contained in their city charters for the necessary enabling authority, and only later did enabling legislation applicable to all communities in the province follow.

One could speculate, for example, that had Vancouver lacked the necessary enabling authority in its own charter,it would have lobbied the Province to enact province-wide enabling legislation as the City's need for an M&O bylaw became apparent.

There is some evidence that, when the City of Regina adopted its initial M&O bylaw in 1975, it was not seriously concerned about its enforceability. Thus, even though the City Solicitor had written the City Manager in July, 1975, to say, "On the whole we can say that this bylaw, if challenged, would not stand up...," this concern did not cause the City, at that time, to seek better enabling legislation which would have made possible an enforceable bylaw. "During passage, Council expressed the policy that the bylaw was being considered only to meet the requirements of the agreement with the Corporation and that no provision would be made in the annual budget to accommodate the staff necessary to appropriately administer the bylaw. It was particularly argued that a bylaw that imposed the need of repair or renovation of houses or elderly owner-occupied dwellings was to be given lip service only." Still further, "although the bylaw defined 'standards officers' as an officer appointed by the municipality to administer and enforce 'these regulations,' City Council did not choose to name such a person."[107]

It appears there were two flaws in this early enabling legislation that lay behind the city Solicitor's concerns about the 1975 bylaws. One is that, while much of the language in the section of the Saskatchewan Housing Corporation Act under discussion was modelled on the Ontario Planning Act, the framers had left out a definition of the word "property." The result was that it was not made clear whether the Act covered property built prior to the enactment of the Act or of a municipal bylaw enacted pursuant to it. In other words, it was not made clear by the wording of the Act whether this enabling legislation contained the retroactivity feature essential to an M&O bylaw.[108]

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[107] Burns, G. Colby, "A Property Maintenance and Occupancy Standards Bylaw: Do We Need It? Can We Enact It?" Presented in partial fulfillment of the requirement for the Diploma Program in Public Administration (Urban/Regional) University of Western Ontario, March 1981, p. 9. Mr. Burns is Director, Buildings and Civic Properties, City of Regina.

The second difficulty was that Section 30(1) uses the language: "A municipality may by bylaw do any act or thing necessary for the municipality to carry out this act..." (underscoring added). Since the act included coverage of the provincial/municipal roles in the NIP program, the effect of the underscored words was to enable the law to make possible passage of such bylaws in NIP areas, but not elsewhere.

Thus, during the days when RRAP was being carried out in NIP areas only, bylaws enacted under this provision had no difficulty meeting the National Housing Act requirements, but were of little use elsewhere.

Pressure Begins for Better Enabling Legislation

During the period immediately following the 1975 passage of Regina's M&O bylaws, it went unenforced. The lack of the retroactivity feature would have seen to this even if the City had had a mind to utilize it. But, beginning in 1978, community associations began to lobby for an M&O bylaw that "would be diligently enforced." Articulation of such a need was abetted by the fact that the City of Regina provided funds to these community associations to assist them "in the study, development and implementation of programs and activities in a neighbourhood represented by the association." Thus, two community association plans produced in early 1979 "explicitly advocated maintenance standards." During this same general period, reports by the Planning Department itself "directed attention to the need for an improved maintenance and occupancy standards bylaw that would be effectively administered." In mid-1979 a specific recommendation for effective enforcement of an M&O bylaw was made, by the Planning Commission, to Council, which accepted the recommendation.

The Planning Department next approached the City Manager for advice on how best to implement this recommendation, and the latter asked the City Solicitor for his views on the necessary enabling legislation. The City Solicitor, noting the difficulties with the pertinent sections of the Saskatchewan Housing Corporation Act that have been discussed above, suggested the City apply to the Province for more suitable enabling legislation. In late 1980, a resolution was presented to Council seeking that Council petition the Minister of Urban Affairs to present "amendments to the appropriate statutes" for the necessary legislative authority, but in December 1980, the Final Report of the Minister's Committee to Review Urban Law was presented to the Minister. It contained some recommendations for changes to the Urban Municipality Act, but it contained no mention of legislation to improve the legislative authority of municipalities to enact M&O bylaws, the stated reason being that the City had not made a representation to the Committee.[109]

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[108] In a case involving the Ontario Planning Act (George Sebok Real Estate Ltd. and Woodstock (1978) 21 or (2nd) 761), the Ontario Court of Appeal held that the municipality in question did have the authority to control and regulate existing property, mainly because it contained a definition of "property" which was defined to include buildings and structures 'heretofore or hereafter erected.' The absence of such language, then, caused Regional legal officials to believe that the Saskatchewan enabling legislation was questionable. SEE Burns, op. cit., p. 23.

Meanwhile, matters were brought still further to a head by the situation in what is referred to as the "Transitional Area" - an area just south of downtown which at one time had been thought to be where the Central Business District would expand - until the proliferation of outlying shopping centres ended that expectation. Many properties in this area have been bought on spec., purchasers including a number of influential citizens. Yet, "Interim Development Controls" had been imposed, which required that, in order to demolish a building, permission must be obtained from Council, and Council was not anxious to grant such permissions. Thus, a situation had developed where a number of houses had been allowed to deteriorate to the point where they must be torn down. These buildings had become havens for drug addicts and other derelicts who not infrequently had built fires directly on the wooden floors. There had been fire deaths, stabbings, and concern on the part of neighbours. In 1982, there were some 118 placarded buildings, of which half were in the Transitional Area. (There is a provision in the Public Health Act which permits a building to be placarded and ordered vacated, but only after it has reached an advanced state of deterioration.) What the city perceived it needed was something that would enable it to deal with substandard housing conditions before the building reached such a stage.

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[109] Burns, op. cit., pp. 11-27. This report has been drawn on extensively in the above description of the efforts of community associations and municipal officials in the City of Regina to obtain better enabling legislation.

By early 1981, Council sentiment had evolved to the point where it was ready to formally petition the Minister of Urban Affairs for the necessary enabling legislation and it directed that city officials proceed with the task, already under way, of preparing a new M&O bylaw in anticipation of the enabling legislation being enacted.[110]

The experience of the City of Regina, both in evolving to a position where it wished to be able to have an effective, enforceable M&O bylaw, and in appealing to the Province to make such bylaws possible through more effective enabling legislation, has been cited at some length because of that City's instrumentality in getting suitable language to a revised Urban Municipalities Act introduced.

Regina was not the only Saskatchewan municipality perceiving this need, however. Indeed, in responding to a CMHC survey of municipalities regarding their M&O bylaws, an official of the City of Saskatoon went so far as to suggest that the Province should make the enactment and enforcement of M&O bylaws mandatory for larger municipalities, and that such action should be encouraged by the Federal Government.[111]

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[110] The text of the report from the Committee of the Whole Council approved, on 1981-01-19 by Open Council, is as follows:

> "As City Council is aware, the Administration has been studying the compiling and implementation of a Maintenance and Occupancy Bylaw. Although the study has progressed to the point where a bylaw in this respect could be drawn up and brought down to City Council for adoption, it has been ascertained the City does not have the legislative power to pass such a bylaw.
>
> Nevertheless, in anticipation that the City would be successful in petitioning the Government for changes in legislation to permit the City to pass a Maintenance and Occupancy Bylaw, it is recommended:
>
> 1. That a maintenance and Occupancy Bylaw be prepared.
>
> 2. That the Property Control Committee continue as the Committee of Council to which the interdepartmental committee (which is coordinating the preparation of the Bylaw) reports.
>
> 3. That His Worship the Mayor write the Minister of Urban Affairs requesting legislative amendments to remedy the deficiencies in the present legislation." (Burns, op. cit., pp. 28-29.)

[111] Response dated 1983-10-06 from City of Saskatoon to M&O bylaw survey undertaken by Program Evaluation Division, CMHC, in connection with the RRAP evaluation.

The New Urban Municipalities Act

By the time of my vist to Regina in connection with this study in July 1983, a new Urban Municipality Act was being drawn up. I interviewed two of the key officials of Saskatchewan Urban Affairs engaged in this task, and learned that there was, indeed, a good chance that enabling legislation for M&O bylaws - or at least for maintenance bylaws - would be included. A series of articles in the Regina Leader-Post on "Living Below the Poverty Line," which had appeared in late May and early June 1983, had focussed on the need for M&O bylaws. These officials explained that there was considerable sensitivity over the occupancy component of any enabling legislation that might be put in place, as many of the cases of overcrowding in Regina involve Native people, and permitting property maintenance bylaws that also contained occupancy provisions might be seen as an anti-Native move. They pointed out, further, that there were already occupancy provisions in the Public Health Act.[112] Thus, they thought it likely that any language included in the revised Urban Municipalities Act would be limited to permitting municipalities to enact property maintenance - and not full maintenance and occupancy - bylaws. They also stated that they did not expect the enabling legislation to be limited to residential properties. These provincial officials stated that, in drafting the new Act, they were seeking to respond to the recommendations of the Urban Law Review Committee. This was a body established by the Province at the urging of the Saskatchewan Urban Municipalities Association (SUMA). The Committee consisted of approximately eight persons, including the Deputy Minister of Urban Affairs and three representatives from SUMA. It had sought input relative to the new Act from municipalities of all sizes.

They stated that the difficulty with other, existing, enabling legislation dealing with existing buildings was that municipalities were only empowered to intervene in extreme cases.

The same point was made by a group of Regina municipal officials with whom I met on the following day: because the nuisance provisions in the Public Health Act and Urban Municipalities Act only permitted municipal officials to intervene when a building had reached a point of dilapidation - the situation was most extreme in the "Transitional Area" discussed above - they were seriously handicapped in not being able to intervene at a point where they might be able to prevent a building reaching such an extreme state, with all the ancillary problems that implied. This view was expressed not only by building, health and fire officials, but by police representatives, as well. The Transitional Area Community Society (TACS) joined in this view.

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[112] Section 73(1)(n) lists "the prevention of overcrowding of premises used for human occupation, hotel bedrooms, common lodging houses, and places of assembly, and fixing the amount of air space to be allowed for each individual" as one of the purposes for which the Minister, subject to the approval of the Lieutenant Governor in Council, may make rules, orders and regulations.

The Public Health Act is discussed more fully later in this chapter.

Messrs. Koop and Edwards, told me that the bill was scheduled to be introduced in the Fall Session - 1983 of the Legislature. As it happened, the introduction of the bill was deferred until May 1984 and came into effect on 1 November 1984.

The new Section 126, "Maintenance of Private Land and Buildings,"[113] is, as had been forecast, limited to enabling municipalities to enact maintenance bylaws; there is no occupancy feature as relates to overcrowding, although occupancy of non-conforming buildings may be prohibited. In light of the provision of Section 73(1)(n) of the Public Health Act (discussed above), this omission may not be too serious, since by suitable coordination between building and health officials overcrowding, if observed, could be addressed, much as the City of Winnipeg and other municipalities, as well, coordinate their various bylaws according to which is most advantageous for a given circumstances.

Also, as forecast, the scope of the enabling legislation extends to all buildings, and is not limited to residential structures only.

A further concern about the scope of the enabling legislation is that its language may limit municipalities to dealing with building conditions only and not with the immediate surroundings of these buildings. The heading of Section 126 is "Maintenance of Private Land and Buildings," yet the only reference to the site in Section 126(1) where the Council's powers are delineated concerns the condition in which it must be left if the owner opts to demolish rather than make necessary repairs.

It seems that the merchants in one of Regina's malls have written the Urban Affairs Department about problems with littered vacant lots, calling the Province's attention to this omission in the enabling legislation. The Province has replied that litter and nuisance provisions can be used, but at the same time, it has written to the City asking whether, in its view, Section 126 should be amended.

Adoption of Maintenance Bylaws by Municipalities

In February 1985, a report was sent by the Department of Buildings and Properties to the Regina Council. The report contained a proposed maintenance bylaw as well as the regulations to go with it. It recommended that the City Administration be instructed to circulate the report to all community associations, with a deadline for their inputs and that the proposed bylaw be brought forward as soon as possible after these comments have been received. Comments have been sought from persons outside the city who are knowledgeable about M&O bylaws, as well. Furthermore, officials from Regina visited Winnipeg to observe their M&O bylaw program. Still further, the Department of Buildings and Properties is considering the secondment of someone from the Health Department, so that administration of the unsightly premises bylaw can be more closely integrated with that of the new property maintenance bylaw, not to mention the occupancy provisions contained in the Public Health Act. It is expected that the new bylaw will be adopted in late 1985 or early 1986. The Department is anxious that sufficient staff be made available to administer the new bylaw, and these requirements are being considered.

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[113] The text of Section 126 of the Urban Municipalities Act is reproduced in Appendix "A", and that of other pertinent Sections (Sec. 84, Power to make repairs, Sec. 91, Validity of Bylaws and Resolutions, Sec. 92, Penalties, Sec. 93, Enforcement of Bylaws, Sec. 94, Bylaw Enforcement Officers, Sec. 95, Warrant re: entry and inspection, Sec. 124, Nuisance, Sec. 125, Danger to Public Safety, Sec. 130, Untidy or Unsightly Lands and Buildings and Sec. 132, Junked Vehicles) is reproduced at Appendix "B".

Officials of the City of Saskatoon are also interested in adopting a maintenance bylaw and, like those in Regina, are concerned about obtaining enough staff to administer it. I was informed that, under Section 30 of the Saskatchewan Housing Corporation Act, Saskatoon had adopted a rudimentary M&O bylaw, but had never tried to enforce it. More recently, but prior to the November 1984 proclamation of the Urban Municipalities Act, the Director of Planning and Development, supported by one or two aldermen, had written a report, drawing upon the CMHC study, "A Profile of Successful Maintenance and Occupancy in Canada,"[114] in which he had stated his support for a revitalized property maintenance bylaw. At that time, however, they ran into the problem of the limited scope of this earlier piece of enabling legislation[115] (discussed at the first part of this chapter), and were forced to wait until the new Urban Municipalities Act came into effect in late 1984. They have now re-started the process, and hope to have a maintenance bylaw in the near future.[116]

Information on any moves by other Saskatchewan communities to adopt maintenance bylaws is not available as municipalities are not required to notify the Province when bylaws are adopted.

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[114] Hale, op. cit.

[115] The Saskatchewan Housing Corporation Act is in the process of being updated, and consideration is being given to removal of Section 30, in light of the existence now of better enabling legislation through Section 126 of the Urban Municipalities Act. (Telephone conversation with Jim Anderson, Research Officer, Municipal Advisory Services, Saskatchewan Urban Affairs Dept., 1985-02-05, and letter of 1985-02-26 from Calder Hart, President, Saskatchewan Housing Corporation, to Michael B. Young, Provincial Director (Saskatchewan), CMHC.)

[116] Telephone conversation with Bert Wellman, Director of Planning and Development, City of Saskatoon, 1985-02-05.

Other Relevant Statutory Provisions

Several other sections of the Urban Municipalities Act are relevant to the maintenance of properties.

First, there are certain sections of the "General Provision Relating to Bylaws." Section 84 provides that where someone fails to do something that a bylaw requires, the Council may require the work to be done and the expenses recovered, with costs:

- by court action;
- in the same manner as municipal taxes; or
- by adding the cost to the taxes so that they actually form part of the taxes.

Section 91(1) is of interest because it holds that no bylaw is invalid merely because it was beyond the legislative jurisdiction of the Council at the time it was enacted if it now conforms with this Act. This would seem to indicate that maintenance bylaws which were enacted under the old Saskatchewan Housing Corporation Act, and were of questionable legality, for reasons discussed above, may, so to speak, be "rehabilitated" due to the presence, now, of Section 126 of the Urban Municipalities Act.

Section 92 concerns fines for violations of bylaws, Section 93 concerns enforcement, Section 94 deals with appointment of bylaw enforcement officers, and Section 95 deals with warrants re: entry and inspection.

Section 124 concerns nuisances,[117] and represents a substantial improvement over the provisions for the same in the predecessor Urban Municipalities Act. The amount of time that must be given owners to correct a violation is reduced from "not less than three months" to "not less than 45 days." Moreover, an appeals procedure has been inserted.

Section 130 concerns "untidy or unsightly lands or buildings" which together with Section 132 "junked vehicles" and Section 133, "Litter,"[118] may cover off the lack of provision for the immediate surrounding of buildings in Section 126.

Certain of the provisions of the Public Health Act are of special importance in Saskatchewan in view of the fact that Section 26 of the Urban Municipalities Act only enables municipalities to enact maintenance bylaws rather than maintenance and occupancy bylaws.

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[117] SEE also Sections 29-36 of Public Health Act, discussed below.

[118] SEE Footnote 113 for references to these sections of the Urban Municipalities Act.

The relevant sections are Sections 20-27, which deal with medical health officers and sanitary officers, Sections 29-36 which deal in considerable detail with nuisances (thus complementing Section 124, "Nuisances" of the Urban Municipalities Act). Section 37 deals with unsanitary dwellings, but the building or relevant part of it must be found to be unfit for occupancy before the medical health officer or sanitary officer can take any corrective action. The problems inherent in this limitation were discussed earlier in this chapter.

Part V of the Public Health Act is entitled "Regulations" and it is here that all the topics concerning which the Minister may make "rules, orders and regulations which he deems necessary for the protection or in the interests of the public health and the relief of destitution..." are listed. These include subsections (j) "houre to house visitation and inspection", (l) "the prevention and removal of nuisances and unsanitary conditions on public or private property", (m) "the entering and inspection of premises used for human occupation in a locality where the existing conditions are in the opinion of the Minister unsanitary" and, perhaps most important, (n) "the prevention of overcrowding of premises used for human occupation, hotel bedrooms, common lodging houses, and places of assembly, and fixing the amount of air space to be allowed for each individual". This last subsection is the essential occupancy complement to the maintenance provision of Section 126 of the Urban Municipalities Act, since the reference to "premises used for human occupation" is construed to mean all types of dwellings. Just as the City of Winnipeg, and doubtless a number of other municipalities, choose from among the various applicable bylaws and regulations, administered often by different agencies, so these occupancy provisions could be invoked by the appropriate health authorities as indicated. Thus, the absence of occupancy provisions from Section 126 of the Urban Municipalities Act, while perhaps a nuisance to local maintenance bylaw administrators, need not keep instances of serious overcrowding from being dealt with.

Subsection (u) "the construction, lighting, ventilation, heating, inspection and sanitary control of apartment blocks" is also relevant, but only where, subject to Section 37, the dwelling is found unfit for human occupation.

Saskatchewan has a Fire Prevention Act, 1980, being Chapter F-15.01 of The Statutes of Saskatchewan, 1979-80. As might be expected, this contains the power to "inspect any building or premises and order the remedy or removal of conditions that are likely to cause fires in or on that building or premises" (Sec. 4(d)), as well as various other provisions relating to inspections, orders to remedy dangerous conditions, enforcement, exits, etc. An interesting feature is that each fire insurance company is assessed 1% of its net premiums as a contribution to the cost of administering this Act.

Finally, mention should be made of Section 141, "Repair of certain residential premises" of the Urban Municipalities Act prior to November 1984. Under this section, "upon the recommendation of the medical health officer, the Council may by resolution or by bylaw declare any occupied residential premise to be dangerous to the health of the occupants thereof, and by such resolution or bylaw as may be directed therein, may order that the premises shall be repaired..."

This provision was removed from the version of the Urban Municipalities Act that came into effect in November 1984. During my July 1983 visits to Regina, I was told by municipal officials that this provision had not been used, because it was feared that "health" would be too narrowly construed.

Provincial Attitude Towards Maintenance Bylaws

When I met with the provincial officials responsible for drafting the new Urban Municipalities Act, I was told that the Province wanted to respond to the recommendations of the Urban Law Review Committee, discussed earlier in this chapter. In general, they saw their role as making it possible for municipalities to carry out the tasks they felt to be necessary. They stressed that any enabling legislation that might be enacted would only be permissive. (Contrast this with certain Quebec proposals contained in the November 1984 green paper, "Se loger au Québec.")

Another provincial official commented, in like vein, that provincial enabling legislation should empower municipalities with the power to do the things they wish to do. The Province is trying to get away from a parental approach to municipalities, he stated. Asked what he would see as an appropriate role for CMHC regarding property maintenance bylaws and their administration, he responded that he would see CMHC as being able to offer advice. If CMHC could provide financial assistance to municipalities to help them administer these bylaws, that would also be helpful.

A more recent conversation with an Urban Affairs Department official yielded a similar view of the provincial role vis-à-vis municipalities. The provincial role, said this official, is to yield to the cities' requests. Unless someone shows the Province that there is a specific role they should play, they say, "Good luck!" to the municipalities and give them the enabling legislation they need.

Summary

While there is, as yet, little experience in administering property maintenance bylaws in Saskatchewan, the basic enabling legislation is in place (although it may or may not require fine-tuning). Furthermore, officials in both Regina and Saskatchewan are keen to have active property maintenance bylaw programs, and expect to have suitable bylaws in place during the coming months to replace the older bylaws enacted under provisions of the Saskatchewan Housing Corporation Act, which were limited to NIP areas and not seriously enforceable.

There has been no indication of any moves towards adoption of property maintenance bylaws in other Saskatchewan communities, but officials in other Saskatchewan communities have indicated they wish to observe what happens in these two principal cities before taking initiatives of their own.

As for the Province, it has indicated that, while it wishes to provide municipalities with the enabling legislation for which they perceive a need, it has no intention of pressuring municipalities to adopt and administer M&O bylaws.

ALBERTA

Current Status

The Alberta story, for the purposes of this paper, is one of the simplest and most straightforward. There are, to be sure, certain problems with other types of standards, eg., the absence of anything resembling renovation guidelines or a renovation code. This means that rehabilitation work is required to be carried out in conformity with the new construction standards of the National Building Code.[119] These problems are peripheral to the purpose of this study, and will therefore only be dealt with briefly.

Since 1970, however, the Province of Alberta has had enabling legislation permitting municipalities to enact M&O bylaws.[120] Section 248 of the Municipal Government Act not only covers occupancy as well as maintenance standards but also covers "existing property" and thus is not limited just to residential property or just to buildings.

The legislation is not elaborate, but it appears to give municipalities what they need. It enables a municipal planning commission or a development control officer to administer the bylaw. (In point of fact, I was told, actual administration is normally by the same agency that administers the Building Code.) The enabling legislation also requires that formal notice be served, before the bylaw can become enforceable, not only on the owner, but on "all persons shown by the records of the land titles office to have an interest in the property and on the occupant."[121] (underscoring added)

The requirement that notice be served on those with an interest in the property is not unlike the requirement in Ontario's enabling legislation, which several municipalities have reported often serves to get mortgagors to press mortgagees to repair the property. The provision that the occupant be notified, as well as the owner is, to the best of the author's knowledge, unique, but is something that other jurisdiction should note.

As of the fall of 1984, over 30 Alberta municipalities were reported to have M&O bylaws. Alberta Municipal Affairs does not maintain records, but the Alberta Urban Municipalities Association (AUMA) had requested that their members provide them with copies of their bylaws.[122] The AUMA also will provide the legal opinions necessary when communities adopt bylaws, as many municipalities lack legal counsel of their own. Not only that - and this is important - it has been encouraging members to adopt M&O bylaws. While somewhat over two thirds of these municipalities are communites with RRAP, and therefore required to have M&O standards, it is significant that nine of them are not RRAP communities, but have nevertheless seen fit to adopt M&O bylaws.

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[119] These problems will presumably be ameliorated if not eliminated altogether, as work now under way at the national level, to develop new chapters to the NBC relating to renovation come into force.

[120] Section 248, Municipal Government Act. SEE Appendix "A" for text of this section.

[121] Section 248(4).

[122] A list of municipalities with M&O bylaws is shown at Appendix "E".

Background

It is interesting to note, from the historical perspective, that pressure had begun to mount in Alberta for provincial legislation to enable municipalities to adopt M&O bylaws as far back as during the heyday of urban renewal. An Urban Renewal Study for the City of Edmonton[123] called for a three-pronged attack throughout the older residential districts of the City to be coupled with the provision of subsidized public housing, and to consist of:

> "1. A Housing Occupancy and Maintenance Bylaw, requiring minimum standards for physical condition, and fitness for occupancy, of all rented accommodation.
>
> 2. A tax exemption on house renovations which improve the quality and condition of owner-occupied accommodation.
>
> 3. The replacement of pockets of worn-out housing..."

This report went on to cite the Province of Ontario's report, "A Better Place to Live," which had been published in 1962,[124] which clearly had had an important impact on the Edmonton planners. It then proceeded to state:

> "In every province there is some form of health legislation bearing on standards of occupancy for dwellings, and in addition there are Municipal Bylaws relating to electric wiring and fire hazard. However, there is generally no organized systematic program of blight prevention based upon long-range, "neighbourhood improvement" planning, and associated with the provision of alternative accommodation in the form of subsidized public housing.
>
> All too frequently, regulations that do exist contain loopholes that make enforcement difficult; administrative personnel lack sufficient resources and guidance from governing bodies to make an overall policy effective; and, with the exception of cities having maintenance bylaws, the regulations fail to prevent the continued deterioration of property.

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[123] Edmonton, City of, City Planning Dept., "Urban Renewal Study for the City of Edmonton", 1963-64, pp. 24-26, 30.

[124] For citation, SEE Footnote 59.

> In Edmonton, there is firmly entrenched a strong tradition of public opinion which favours the rights of owner-occupiers to do as they please with their own property irrespective of health, welfare and safety, and there would undoubtedly be real hardship if compulsory improvements were applied to single family dwellings owned by pensioners or other low income groups.
>
> However, rented accommodation is another matter. The act of renting is a commercial venture which provides an income to the landlord. Consequently it is only reasonable to expect the landlord to provide accommodation which complies with minimum acceptable standards for decent living."[125]

The report then proposed:

> ". that the City adopt a Housing Occupancy and Maintenance Bylaw to protect the health, safety and welfare of the occupants of rented accommodation and to prevent the further deterioration of factors which contribute towards urban blight.
>
> . that this be achieved through the establishment of minimum standards of structure, equipment, maintenance and occupancy, with a phased house by house program in multiple residential or "conversion" districts, plus the inspection of individual dwellings in other areas which are the subject of complaint.
>
> . that legislation be obtained through Provincial statute, authorizing the passing of a bylaw in accordance with an official program of Urban Renewal, setting standards for physical condition and fitness for occupancy, and establishing penalties (with continuing fines) for violation of these standards in all rented accommodation.
>
> . that this program will necessitate the employment of three Urban Renewal officers within the City Planning Department (trained and experienced in Building Inspection), with enforcement by the "Investigating Officer" of the City Legal Department.
>
> . that the judgement of the Medical Officer of Health, Fire Chief and Superintendent of the Electrical Distribution System be sought whenever health and safety hazards are apparent.

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[125] Edmonton, City of, _op. cit._, p. 25.

. that a Better Housing Commission be set up as an Advisory Board to prepare and implement a Housing Occupancy and Maintenance Bylaw. The suggested membership is:

Medical Officer of Health
City Architect & Building Inspector
Superintendent, Electrical Distribution System
Fire Chief
City Solicitor
Chief Planner
Superintendent, City Welfare Department
Director, Edmonton Welfare Council
Representative of Chamber of Commerce
2 Aldermen or City Commissioners."[126]

During the Urban Renewal era, there was less pressure from Calgary for M&O bylaw enabling legislation. Thus, with respect to the Calgary Centre project, the Planning Department stated:

> "Having regard to the nature of Urban Renewal proposals, which envisage redevelopment as opposed to rehabilitation,... the introduction of building occupancy and maintenance legislation as a requisite of their particular scheme would appear to be unnecessary... It is anticipated that a Housing Occupancy and Maintenance Bylaw must be prepared in conjunction with later residential renewal projects."[127]

The documentation for the City's next urban renewal scheme contained a similar disclaimer, but it did state that, "such legislation is already being examined in anticipation of later renewal projects."[128]

Training Available

The Province appeared to be, at the time of my visit in mid-1983, much more active with respect to building code matters, as they affected new construction, than with the administration of M&O bylaws. Thus, there is a correspondence course in the administration of the Building Code, which is coupled with a voluntary certification program. One course was on Part 9 - Housing and Small Buildings. There was also an administration course, and still another course, on carrying out inspection, was under development. None of these related specifically to M&O bylaws, but it was pointed out to me that a number of the skills developed through these courses would be pertinent to the work of an M&O bylaw inspector.

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[126] Ibid.

[127] Calgary, City of, Planning Dept., Urban Renewal Scheme No. 1 - Plan of Action for 'Calgary Centre': Supporting Documentation, Dec. 1965, p. 70.

[128] Calgary, City of, Planning Dept., Urban Renewal Scheme No. 1A for a Portion of Churchill Park, March 1966, unpaged.

Another training opportunity is provided by the City of Calgary Law Department. This is an eight-day course on Enforcement and Investigation Skills, which is created under the Law Enforcement Training Program for special constables, bylaw enforcemnt officers (bylaws of all kinds), regulatory officers, fire, building, gas, plumbing and licence inspectors. "The training program culminates in mock trials which are video-taped and later evaluated with the particpants. The course makes the participants aware of how the various enforcement functions carried out in civic departments are interrelated in one way or another."[129] It has been offered since 1980, and is available on a first come, first served basis to officials from across Canada.

The City of Calgary's Law Department also offers a one-day course, specifically beamed to building, plumbing, gas and minimum maintenance inspectors, whose purpose is to enable inspectors to deal with the violators of the legislation quickly and effectively.

Another source of training are the two-year certification programs in Building Construction and Civil Construction, conducted by the Northern Alberta Institute of Technology. The Edmonton Planning Department draws its KRAP inspectors from this source, rather than from the building trades as such.

Yet another training program is targetted at homeowners, and is designed to help them help themselves to cut heating costs. The program, called the CHAP Retrofit Training Program, was being offered jointly by the Alberta Department of Housing and Alberta Energy and Natural Resources. While, of course, the emphasis is on energy savings, there is much of the course content that would be suitable to a straight rehab course: practical advice about weather stripping, caulking and vapour barrier; hiring a contractor; sources of financing - dealing with your banker. Thus, this course certainly is a provincial contribution to the maintenance of its existing housing stock.[130]

Relationship of M&O Bylaws to Other Regulations

As in most other jurisdictions, in Alberta the M&O bylaw proves most effective when used in conjunction with other regulations. Thus, for example, when the City of Edmonton finds itself confronted with a derelict building, it addresses the situation under the Building Code, as it is a stronger law.

All the interfaces between M&O bylaws and other regulations are not as felicitous, however. At the time of my mid-1983 visit, the Province had just recently adopted the National Building Code, which had the effect of imposing new construction standards when permits for renovation work had to be taken out. Where buildings had been built under a previous building code, I was informed by an Edmonton city official, there was usually no problem with fire separations and the like. Nor does the matter arise often with one-family houses, as most single-family rehabilitation does not require a permit, and even then it is thought there would be no problem. The problem arises, however, with buildings that have been converted.

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[129] Course brochure. For further information, contact: O.N. Channan, Chief Controller of Prosecution, City of Calgary Law Dept., P.O. Box 2100, Postal Station "M", Calgary, Alta. T2P 2M5. Tel.: (403) 268-2441.

[130] Edmonton Journal, 3 November 1983.

As I understand the problem, a solution would require two measures:

- municipal action to relax zoning requirements; and
- provincial action to modify the Building Code, by providing alternate means of providing the same level of life safety.

This was seen just as strongly to be a problem by Calgary building officials as by the Edmonton RRAP official cited above, but the matter was not seen in as serious a light by the Building Standards Branch in the Department of Labour. They point out that there are mechanisms in the legislation whereby standards can be relaxed by Ministerial exemption, and that the Director of the Building Standards Branch has certain powers under the Code itself, eg., broader interpretation of equivalencies, and further, that the code only applies to new material or equipment installed, or to the redesign of space, or where the occupancy classification changes with a resultant increase in public risk. Nevertheless, the Act was to be reviewed, and this may result in making the Building Code more flexible.

Some of the officials I interviewed spoke of a section of the Municipal Government Act - Section 248 - which is the enabling legislation for M&O bylaws, as being "superceded" by Section 4 of the Uniform Building Standards Act, but this proved to be not quite accurate. Section 4 reads as follows:

Municipal bylaws or codes imperative

4. Any bylaw or code

(a) prescribing standards respecting any materials, equipment, protection devices or appliances used or installed in the construction of any building,

(b) prescribing any materials, equipment, protection devices or appliances that must be used or installed in a building or a class of building,

(c) governing the use of installation of any materials, equipment, protection devices or appliances in a building or a class of building,

(d) prohibiting the use or installation of any materials, equipment, protection devices or appliances in a building or a class of building,

(e) classifying buildings according to their use or occupancy,

> (f) governing methods used in the construction or demolition of any building or any class of building,
>
> (g) governing the construction standards that must be met in respect to any building or class of buildings,
>
> (h) governing the use of the property on which a building is located during the period of time that the construction or demolition of the building is taking place, or
>
> (i) generally, providing for any other matter in connection with the construction or demolition of buildings,
>
> and made or adopted under the Municipal Government Act or the County Act is inoperative.

The real impact of this section is not to invalidate M&O bylaws, but rather to require that any repairs done pursuant to them is done to the standards set forth in the Building Code.

A parallel situation appears to exist with respect to fire prevention regulations. The situation is that a new Provincial Fire Prevention Act was proclaimed on 2 February 1983. Evidently, this had been in preparation for some time, as the regulations to accompany it were approved in 1979.

Section 27(7) of the new Act states that: "A bylaw of a municipality that deals in whole or part with the same subject matter as is dealt with by this Act or the regulations is inoperative." The City of Edmonton Fire Marshal noted that this, of course, served to annul the City's previous Fire Bylaw, which covered flammable materials, exits, other fire hazards, etc., in any kind of building. This bylaw is now replaced by the 1979 regulations, which cover only "controlled buildings" eg., schools, custodial homes, hospitals, residential schools, etc. Thus, for the time being, there is no fire regulation covering normal residential properties.

It is the intention, however, that the 1979 regulations will be replaced by the National Fire Code. This will again cover all building types. The difficulty, however, in the view of the Edmonton Fire Marshal, is that the flexibility to bend to the realities of existing structures will be lacking, just as it appears to, in Alberta at least, with the National Building Code.

Provincial View of CMHC Role

I asked a senior official of the Building Standards Branch, Department of Labour, what he felt an appropriate CMHC role respecting M&O bylaws to be.

He stated that, in his view, enabling legislation varied so much from province to province that CMHC would experience difficulty if it attempted to promulgate a model M&O bylaw. Permit requirements were likely to vary from one province to another, as well.

He thought, however, that the Corporation could play a useful role in the production of training aids on such topics as how to deal with contractors, how to carry out an inspection, etc.

Summary

Alberta has had suitable enabling legislation for M&O bylaws since 1970. All existing property (not just housing) is covered by this legislation.

An interesting feature of the legislation (not unlike a feature of the Ontario enabling legislation) is that notice must be served, before the bylaw can be enforced, not only on the owner, but also on "all persons shown by the records of the land title office to have an interest in the property and on the occupant". (Underscoring added.)

As of late 1984, over 30 Alberta municipalities had M&O bylaws, perhaps partially due to the fact that the Alberta Urban Municipalities Association actively encourages its members to adopt such bylaws.

While the Province has offered training to inspectors, its interests have appeared to be more directed to new construction than to the conservation of existing buildings.

BRITISH COLUMBIA

Background

British Columbia, at the time this study was initiated, was one of three provinces lacking enabling legislation for M&O bylaws. Recently, however, enabling legislation has been enacted by the other two provinces, leaving B.C. as the only province where municipalities are not free to adopt such bylaws.

There has been some confusion over just what the circumstances were in B.C. respecting enabling legislation, since it was known that Vancouver not only had such a bylaw, but had recently updated it.[131] Furthermore, several B.C. municipalities were known to have enacted M&O bylaws to satisfy the NIP and RRAP-related requirements in the National Housing Act, even though it was understood that the necessary enabling legislation was lacking.

The answer, in the case of Vancouver, proved to be a simple one: the City has the necessary powers under the Vancouver City Charter.[132]

The answer, for the other communities, was that a number of B.C. communities enacted M&O bylaws to satisfy CMHC requirements in connection with NIP and RRAP, but in the absence of appropriate provincial enabling legislation it was highly questionable whether these could be enforced should a case come to court. (This is discussed in greater detail below.)

In the absence of enforceable M&O bylaws, except in Vancouver, two other methods of regulating existing housing conditions in a portion of the housing stock have evolved in B.C. to a point that is, perhaps, beyond where they might have evolved had remedies through M&O bylaws been available.

One of these approaches is through the provincial Fire Prevention Regulations, administered by local officials throughout the Province. The other approach is through housing condition complaints under the Residential Tenancy Act. Several other provinces have similar provisions in their residential tenancies acts but, because of other available means of addressing substandard housing conditions do not find it necessary to use these provisions as actively as B.C. has.

The rather "pro-active" posture the Province has taken with the administration of the "Duty to Repair" and "Repair and Service Order" components of its Residential Tenancy Act contrasts rather sharply with its conservative posture on M&O bylaws. Perhaps this reflects the more polarized nature of its political life.

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[131] For discussion of Vancouver's Standards of Maintenance Bylaw program, SEE Appendix "D".

[132] These powers are limited to residential properties, however. This is a feature the City would like to see changed.

Under B.C.'s Municipal Act, municipalities are not entirely powerless to deal with the condition of existing properties, as the Act contains provisions authorizing municipal councils to deal with:

- demolition or repair of a building or "thing" that contravenes a bylaw or that council believes to be unsafe;
- nuisances and disturbances; untidy and unsightly premises; and
- removal of dangerous erections.

These provisions, Sections 735, 932(h) and 936, respectively, of the Act, are similar to provisions in the legislation that other provinces also have, and normally have had, well before enabling legislation for M&O bylaws was enacted. They all touch on matters that would normally be contained in M&O bylaws, but the great lack is that they fail to enable a municipality to come to grips with a deteriorating building until it has reached such a state of dilapidation that repair is likely to be impractical.

M&O Bylaws during the NIP Era

British Columbia municipalities participating in NIP and RRAP were presented with a dilemma when confronted with the provision regarding M&O standards and bylaws contained in the NIP and RRAP sections of the National Housing Act, yet knowing (or at least suspecting) that they did not have the provincial enabling legislation empowering them to enact such bylaws. CMHC officials in B.C., as well, had to determine what would constitute minimum satisfactory compliance with these requirements.

The response took three forms - sometimes a combination of more than one of them.

The first of these might be termed the Rossland model. This rather small community (1971 population 3 896), a former mining town which is now a bedroom community to nearby Trail, where there is a Cominco plant, adopted an M&O bylaw in 1974, which was actively administered by the town's deputy clerk, the inspector and the RRAP administrator. Violations were noted, owners were approached, and compliance was achieved - but always through persuasion, never through the courts.

Indeed, during the early NIP years, the B.C. Department of Housing had made it a practice to send out copies of Rossland's M&O bylaw to other communities as a model, such a bylaw, at that time, being considered by provincial housing officials to be acceptable provided property owners were not forced to make repairs against their will.

A second model, typified by the City of Victoria's "Premises Maintenance Bylaw - No. 6746" enacted in October 1974, invoked those sections of the Municipal Act that did deal with existing properties - those having to do with demolition or repair of buildings contravening an existing bylaw or deemed by Council to be unsafe, with nuisances and with untidy and unsightly premises, with dangerous erections, etc. What resulted was not exactly an M&O bylaw in the sense that these are understood today, because (except for the untidy and unsightly premises component) it failed to enable the municipality, as a rule, to deal with a deteriorating property before it go so dilapidated that repair was no longer feasible. But such a bylaw did have the advantage, at least, of pulling together such provisions as there were in the Municipal Act as did deal with existing structures.

During the mid-70's there existed in B.C. a "NIP Review Committee" consisting of key officials of the provincial Department of Housing and the CMHC Regional NIP/RRAP Coordinator. At the 28 March 1978 meeting of this committee, two officials from Municipal Affairs were brought in to discuss whether M&O bylaws were legal and enforceable. The minutes of that meeting note that the answer was:

> "... in a nutshell, that if the provincial Municipal Act specifically provides the Municipality with the authority - yes; and if not - no. That is, under the Municipal Act, the only bylaw making authorities in the maintenance and occupancy realm are provided under Sections 870, 871, 873 and 715. These Sections essentially deal only with basic health, safety and nuisance factors, and only where such presents a hazard. Any M&O bylaws passed by a Municipality which deals with matters other than those specifically authorized under those Sections will more than likely be found ultra vires by the Courts if challenged. However, Municipal Affairs cannot 'rule' in such matters (it would be a matter for the courts) but does often inform the Municipality that these bylaws could likely only be used as 'persuasion' and they would be difficult if not impossible to enforce through legal action if challenged."

The minutes of the meeting went on to say:

> "To date, Municipalities have been passing an M&O bylaw in the spirit of Section 27.1 (2)(d) (of the NHA), but generally with the knowledge that the bylaw would be found ultra vires if challenged. The solution would be for CMHC to review their M&O bylaw requirement so that CMHC would be satisfied with a bylaw which does not exceed the authority provided under Municipal Act Sections 870, 871, 873 and 715."

In late 1977 the City of Kelowna's Municipal Council handed down an opinion that an M&O bylaw could only be used for a particular building. This doctrine was explained as follows by the then Minister of Municipal Affairs: "The bylaw applies only to those homeowners who receive financial assistance under the Residential Rehabilitation Assistance Program provided by Central Mortgage and Housing Corporation. The building standards included in the bylaw are for the guidance in the repair of these residential buildings only and indicate the type of repairs on which the funds provided are to be expended. These standards do not apply to buildings not receiving financial assistance under the program. Financial assistance cannot be provided to residents in your area unless this bylaw is in effect."[133] Thus, one had a third model of M&O bylaw - one relating only to those buildings whose owners had already elected to make use of RRAP.

Thus, it can be understood that the circumstances surrounding the ability of municipalities to adopt and enforce M&O bylaws during this period were both rather complex and quite limiting, and may not have always been clearly understood by all communities. It appears that a few municipalities simply went ahead and adopted M&O bylaws in response to the CMHC requirements without a full awareness of the provincial complexities surrounding their power to adopt and enforce them. This could be done because the Province normally only examined individual bylaws in regional districts.

Factors Relating to the Absence of Enabling Legislation for M&O Bylaws

How is it that, now that all the other provinces have enabling legislation permitting municipalities to adopt M&O bylaws (or at least, in the case of Saskatchewan, maintenance bylaws), B.C. still resists such legislation? Not everyone queried had identical interpretations, but certain common threads appear.

One official expressed the view that there is more emphasis on individuality in B.C. - a sense of the Province being the last frontier. Thus, he said, the Province would resist instituting anything that might smack of being a regulatory bureaucracy. This person noted that the Province normally makes it a practice to enact permissive legislation, when there is a municipal demand for the same, but M&O bylaws have not emerged as something the local governments have pressed for. He noted that there is, after all, a network of fire inspectors (SEE below) should there be a problem. He stated, also, that outside of Vancouver itself, there are not that many old buildings (I refrained from asking why, then, there is so much demand for RRAP in the Province.)

This same person went on to say, however, that if at some future time we found that programs limited to a voluntary approach were, say, only 80% effective, and the remaining 20% of cases could apparently only be resolved through use of regulatory measures, overtures to the Minister of Municipal Affairs by CMHC regarding appropriate enabling legislation would be in order. He added that there would, as well, need to be strong support from the Union of B.C. Municipalities (UBCM).

Another person that I met with thought it less likely that the provincial government would look favourably on enabling legislation for M&O bylaws under any circumstances. He even thought that if there were such legislation today, there would be a thrust to get rid of it. There is, he said, a strong trend in B.C. towards deregulation, and more specifically, against the concept that the government should regulate building conditions - aside from essential items of fire prevention and the like.

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[133] Letter of 1979-07-05 from Wm. N. VanderZalm, Minister of Municipal Affairs, to Hunter Smith, President, Cowichan Malahat District Chamber of Commerce, responding to a letter of 1979-06-07 from the latter protesting the introduction of a bylaw.

On the other hand, still another resource person thought that Ottawa should provide, as a companion to the National Building Code, a chapter of the NBC which would constitute a model M&O bylaw. More than one observer has suggested that this might be the only way to bring M&O bylaws to British Columbia.

What is the sentiment of the municipalities (other than Vancouver) regarding the desirability of enabling legislation for M&O bylaws? The UBCM informed me that their organization holds annual conferences at which municipalities express any perceived needs for enabling legislation of any sort. None has been expressed regarding M&O bylaws. There are, officials of UBCM told me, a number of communities with quantities of illegal suites, but because there are so few relocation resources for occupants of such suites, Councils have little interest in enacting bylaws addressing this problem. (It might be noted that enabling legislation for maintenance bylaws, without the occupancy feature, following the recent Saskatchewan model, would bypass this dilemma.)

The question of municipal liability is a factor, as well. At the time of my March, 1984, visit to B.C., the case of Neilson vs. the City of Kamloops was awaiting a decision from the Supreme Court of Canada. (The case has since been decided in favour of the plaintiff.) Without getting into all the details of the case, Neilson had sued the City and the builder when the foundation of his house collapsed. The lower courts (now upheld by the Supreme Court) held the City, as well as the builder, responsible. The lesson being drawn from this case by UBCM's legal staff was that if a municipality were to have a bylaw of any sort, it must have sufficient staff to administer the bylaws effectively, or else risk being held liable for the consequences. It was, therefore, counselling municipalities not to adopt regulations they were not equipped to enforce. And in the present situation of economic constraint in B.C., they did not think it likely that municipalities would be able to find the staff to administer additional bylaws.

A B.C. municipal official gave me a slightly different view of the attitude of B.C. municipalities towards M&O bylaws. This official said that there appear to be two schools of thought. Many municipalities do not understand how declining property can impact on their tax bases. On the other hand, municipalities with left-of-centre Councils would favour being able to play more active roles. His own council has, quite recently, become concerned over the maintenance of older apartments, but is handicapped by the lack of suitable enabling legislation. He has seen changes during the past eight years in the administration of building standards as people become more aware of their rights and begin to expect more of government. This local official thought it likely that there would be more shifting in this direction over the next five years, and he believes CMHC should press the Province to enact suitable enabling legislation.

Finally, it should be noted a factor leading to provincial enabling legislation for M&O bylaws that has sometimes been present elsewhere has not been present in B.C. This is the circumstance where the need for an M&O bylaw in one or more of the larger cities in a province has become so intense that this city or cities apply pressure on the Province to enact the necessary enabling legislation. This has recently been the case with Regina in Saskatchewan, but when Vancouver experienced the need for an M&O bylaw, the enabling authority was to be found in the City's own charter, and this spin-off pressure was not, therefore, exerted.

Finally, as explained earlier in this chapter, the relief provided through the administration of the provincial Fire Prevention Regulations, on the one hand, and the Residential Tenancy Act, on the other, have done much to reduce pressure for enactment of M&O bylaws.

Related Regulations

1. Nuisances and Dangerous Buildings

Sections 735, 932(h) and 936 of the Municipal Act have been briefly mentioned earlier in this chapter.

Section 735 ("Demolition or repair") enables municipal councils to authorize:

> "a) the demolition, removal or bringing up to a standard specified in the bylaw of a building, structure or thing, in whole or in part, that contravenes a bylaw or council believes is in an unsafe condition; or
>
> b) the filling in, covering over or alteration in whole or in part of an excavation that contravenes a bylaw, or council believes is in an unsafe condition."

Section 932(h) ("Nuisances and disturbances; untidy and unsightly premises") empowers councils, again by bylaw, to:

> "prohibit the owners or occupiers of real property from allowing property to become or to remain untidy or unsightly, and require the owners or occupiers of real property, or their agents, to remove from it any accumulation of filth, discarded materials or rubbish of any kind; and may provide that in default of the removal the municipality, by its employees and others, may enter and effect the removal at the expense of the person defaulting, and that the charges for doing so, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable on that real property as taxes in arrear."

Section 936 ("Removal of dangerous erections") provides that:

> "(1) The council may declare a building, structure or erection of any kind, or a drain, ditch, watercourse, pond, surface water or other matter or thing, in or on private land or a highway, or in or about a building or structure, a nuisance, and may direct and order that it be removed, pulled down, filled up or otherwise dealt with by its owner, agent, lessee or occupier, as the council may determine and within the time after service of the order that may be named in it."

While all of the above touch on some of the things that would be contained in an M&O bylaw, as these are understood by the author CMHC, they appear to fall well short of empowering communities to enact and carry out full-fledged M&O bylaws, since they leave a broad gap between unsightly and untidy premises, on the one hand, and buildings that are so badly dilapidated as to constitute actual hazards.

2. Residential Tenancy Act

Although significant amendments to the Residential Tenancy Act were effective on 1 July 1984, the provisions relating to "repair and maintenance" remained substantially the same. The key sections of the Act are Section 8 - duty to repair and keep clean and Section 9 - repair and service orders (formerly Section 25 and 26).[134] Also relevant is Section 20 - hidden rent increase (formerly Section 72) which provides that the rent may be reduced if the court considers that the failure or reduction has resulted in a substantial reduction of the use and enjoyment of residential premises or the service or facility.

The Office of the Rentalsman operated during the period of 1974 to 30 June, 1984, and during this period the repairs and services represented between 5% and 10% of that agency's workload. In 1979 there were 2 562 files of this nature opened; while in 1983 this figure was down to 1 425. In approximately 90% of these cases the issue was resolved after initial correspondence to the parties advising them of their rights and responsibilities under the Act.

Where the matter could not be voluntarily resolved, the Rentalsman would then order the rent to be paid or redirected to the Office of the Rentalsman. This was a very effective provision; but the Rentalsman was not empowered to order the work done until enough money had accumulated in the individual account to pay for it. Unlike repair powers contained in certain M&O bylaws, the Office of the Rentalsman was not empowered to add the cost of repair to the owner's property tax bill. Thus, in some cases there was a problem in not being able to carry out a repair soon enough to enable the tenant to stay. The Office of the Rentalsman was empowered to make an interim, ex parte, order in an emergency situation or where a landlord had failed to reply.

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[134] SEE Appendix "B".

The new Residential Tenancy Act provides for this type of dispute to be resolved by arbitration, unless the landlord and tenant have elected to have all disputes resolved by the courts (and few have made this election). An application to have an arbitrator appointed to hear the dispute is made to the Residential Tenancy Branch which has its main office in Vancouver (65% of the rental stock for the province being in the lower mainland) or the branch office in Victoria (20% of rental stock in this area).

The Residential Tenancy Branch also continues to provide information to the public on their rights and responsibilities under the Residential Tenancy Act.

In the first nine months of operation, there have been 115 files of this nature received; the reduced volume perhaps being caused by a number of factors such as the $30.00 filing fee now required and the higher vacancy rate throughout the Province.[135]

The approach the office uses is important. In talking to the landlord on the telephone they do not threaten. They simply state what can happen. "It's very effective", I was told.

3. Fire Services Act

British Columbia has an actively-administered Fire Services Act. The regulations under this Act - the "B.C. Fire Code Regulation" - is the National Fire Code. This Act is administered through the Office of the Fire Commissioner, which is lodged in the Ministry of the Attorney General.

In B.C., fire prevention is administered through the above Office, and is required by law to be carried out. In contrast, fire suppression is a municipal responsibility, and while of course most municipalities have fire departments, they are not required to.

While fire prevention, then, is formally a provincial responsibility, the Province looks to the municipalities to assist in administering the Fire Services Act. To this end, local fire chiefs are automatically designated Local Assistants to the Fire Commissioner (LAFC). In municipalities without fire departments, the local council can appoint LAFC's, and in unincorporated areas, the chief police officer for the area - the RCMP - serves as LAFC, although I was informed that, in the latter case, the RCMP would like to be relieved of these responsibilities, as it is not an area in which their staff have been trained.

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[135] Update provided by Marilyn A. Morrow, Registrar, Residential Tenancy Branch, Ministry of Consumer and Corporate Affairs, 1985-04-23.

Section 21 of the Fire Services Act authorizes the making of fire inspections.[136] The Fire Services Act's major enforcement powers, however, are limited to hotels or public buildings, the latter being defined to exclude a private dwelling house. Some municipalities nevertheless make inspections of single-family dwellings. Not infrequently, fire companies are used to inspect one and two-family dwellings or, as in Vancouver, low-rise apartment buildings, with the more highly trained Fire Wardens being used for larger dwellings or more complex situations in smaller buildings.

In Vancouver, many former single-family dwellings have been converted to quadruplexes, and this is where much of that city's fire inspection activity is taking place now, having started off in 1973 with hotels over 20 suites, and having now worked down to smaller buildings of three stories of less. While these inspections were, originally, done under the City's Fire Bylaw, in late 1981 or early 1982 the City switched over to the provincial code.

The capacity of fire inspector to provide property owners with advice as to what needs to be done to correct a deficiency, rather than simply telling them what is wrong, is being enhanced through the courses of the Provincial Fire Academy, especially the course for Fire Prevention Officers.

At the time of my mid-1983 visit, the Academy was operating on a $0.5 M annual budget, but was hoping to get an increase to one in the neighbourhood of $1.0 M/year. I was told that the Province picks up all costs connected with these courses: tuition, accommodations, meals, travels - everything but salary. In return, municipalities are expected to perform the inspections without reimbursement from the Province.

While these inspections take place throughout the Province, there are some limitations due to staffing. Thus, in Vancouver, an official known as the "Captain of the Hall" (as in "Fire Hall") is responsible for training fire companies to make fire safety inspections. But there are 20 fire halls in the City, with four shifts each. At the other extreme, in those communities with volunteer fire chiefs, the latter, because they are not paid, have limited time available, in fact, to make fire safety inspections.

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[136] Section 21 reads as follows:

> "Inspection of fire hazards
>
> 21. On complaint of a person interested or, if believed advisable, without complaint, the fire commissioner and his inspectors may at all reasonable hours enter any premises anywhere in the Province to inspect them and ascertain whether or not
> (a) the premises are in a state of disrepair that a fire starting in them might spread rapidly to endager life or other property;
> (b) the premises are so used or occupied that fire would endanger life or property;
> (c) combustible or explosive material is kept or other flammable conditions exist on the premises so as to endanger life or property;
> (d) a fire hazard exists on the premises."

There has been a pilot program running in the Northern Okanagan Regional District that bears on this problem, however. Here, the Regional District has hired a fire prevention officer specifically to carry out fire safety inspections, and indeed have offered to make this service available to several nearby smaller communities on a fee-for-service basis.

One other aspect of the fire safety inspections worth noting is the cross-referral that takes place. If a fire inspector notes a structural, electrical or gas safety problem, referrals can be and are made to the appropriate agencies. As more and more LAFC's receive further training, it is thought that their capacity to spot such conditions will be improved.

4. Health Inspections

I received somewhat mixed versions of the centrality of provincial health inspections as related to the maintenance of residential buildings in B.C. It appears that, while health officials have the power to deal with living conditions throughout a hotel, in an apartment building they would be limited to the public areas.

Provincial View of CMHC's Role[137]

I received somewhat differing views on how the subject of M&O bylaws and, more specifically, CMHC's role with respect to M&O bylaws might be regarded by the Province, according to which provincial official was being interviewed. One person said that he thought the Province might not appreciate CMHC fostering a demand among municipalities for M&O bylaws, but if we were to encourage a housing maintenance strategy, or exert a clearinghouse function on ways in which property owners could be persuaded to repair their properties (provided it had no M&O bylaw component), this would likely be perceived as non-threatening. The Province might provide endorsement and even, where appropriate, staff assistance. He said he'd like to be positive about this, but he cautioned me about any overtures that would seek to enable local governments to regulate the maintenance of property. He continues to feel that no convincing argument has been advanced to date as to why maintenance and occupancy regulations should be enacted and enforced by local governments in British Columbia.

Another official whom I interviewed thought the Province might be willing to go along with M&O guidelines, provided they contained no enforcement procedures.

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[137] SEE also "Factors Relating to the Absence of Enabling Legislation for M&O Bylaws" on pp. 96-98.

A third suggested the Federal Government could contribute by adding, as a supplement to the National Building Code, an optional chapter constituting an M&O bylaw, which could be adopted by reference by municipalities.

A fourth observer, not a provincial official, suggested that CMHC could play a useful role by providing the language for model provincial legislation which would enable municipalities to adopt and administer M&O bylaws. This model, he suggested, should be couched in such a way as to contain restraints that would comfort those provinces concerned with providing municipalities unduly extensive police powers.

He suggested that this idea be discussed with the Federation of Canadian Municipalities (FCM). He said that the American Law Institute has done work in the area of model ordinances, as has the Council of Governments (COG's), an association of metro governments in the U.S. He promised to send me the name and address of the organization of U.S. lawyers who are particularly concerned with municipal law, it being his thought that we might find some appropriate model enabling legislation virtually ready made.

Still another individual said that he thought it likely that the Province would challenge any statement by CMHC to the effect that it would not make a given type of loan unless certain strategies were in place. There is a feeling that planning decisions are best made at the local level. On the other hand, he said that he believed that federal involvement "from the positive side" would cause no problem.

Clearly, then, there is something of a range of views about roles that CMHC could play that would impact on the M&O bylaws situating in B.C. - the last Province to lack enabling legislation for such bylaws.

Further negotiation would be necessary to ascertain just what would constitute acceptable activity on CMHC's part. On the other hand, certain activities, such as the provision of model enabling legislation or of an M&O bylaw chapter of the NBC cannot be seen as aimed at any particular province, and thus could be considered in the absence of, or prior to, such consultations.

Summary

With only Vancouver empowered by provincial legislation to enact M&O bylaws, British Columbia remains the last province where province-wide enabling legislation for M&O bylaws is lacking, and key provincial officials still remain unconvinced that municipalities should be empowered to enact and administer such bylaws.

A few B.C. municipalities, in addition to Vancouver, have adopted M&O bylaws, but they are either much narrower in scope than what is considered in M&O bylaw elsewhere - essentially, they are dangerous and derelict bylaws that do not enable a municipality to deal with deterioration until it has become dilapidation - or they are bylaws that cannot be enforced in the courts.

Some municipalities are beginning to become aware of the need in M&O bylaws, but no representations have been made to the Province through the Union of B.C. Municipalities.

Among solutions to this dilemma that some observers have made are:

- demonstrating the shortcomings of a wholly voluntary approach to the Province;
- providing suitable model enabling legislation; and
- providing a new, maintenance and occupancy, chapter to the National Building Code.

Under the third of these suggestions, adoption by the Province of the NBC, so revised, would be the equivalent of adopting enabling legislation.

Meanwhile, lacking enabling legislation, there has been perhaps more reliance than there otherwise would be on the "repair and maintenance" provisions of the Residential Tenancy Act, which remain in force despite major amendment to the Act as a whole in mid-1984.

The Fire Service Act, administered by local fire chiefs and even the RCMP throughout the province, has made possible a number of inspections of residential properties, even though the Act's major enforcement powers do not extend to privately owned dwelling houses.

CONCLUSION

This study, coupled with the 1982 study of M&O bylaw administration,[138] has demonstrated that the potential for closer linkage between the administration of M&O bylaws on the one hand, and of rehabilitation financing programs, on the other, is far higher than it was a dozen years ago when the framers of the NIP and RRAP legislation recognized that the judicious use of M&O bylaws could result not only in better take-up of RRAP in areas where it was important that some critical mass of dwellings be rehabilitated if neighbourhood decline was to be reversed, but also in better retention of the gains achieved through rehabilitation. Stated in another fashion, they saw both M&O bylaw administration and financing assistance through RRAP as components of a municipal housing conservation strategy.

Unfortunately, the provincial legislative infrastructure was uneven at that time, although the CMHC requirements did lead to a number of improvements. Moreover, municipal experience in Canada with M&O bylaws was quite limited in the early 1970's.

Perhaps, too, the exploitation of this linkage may have been less important at that time than it is now. What with the presence of NIP, there was added incentive to rehabilitate, and the pressure on the RRAP budget was much less than it is now. Then, too, in those early days of the RRAP program it did not seem as important to think about making sure that the rehabilitation accomplished was lasting as it is today, when an increasing number of questions about second RRAP loans are asked.

Thus while RRAP's General Program Objective speaks not only of repair and improvement, but also of the promotion of subsequent maintenance, and while one of its specific objectives is "to promote an acceptable level of maintenance of the existing housing stock", the only tangible manifestation of this objective has been the provision in the National Housing Act for the adoption of "occupancy and building maintenance standards satisfactory to the Corporation".

On the evidence of this study there now exists a great opportunity for achieving the program objective through means other than simply offering subsidy, although that will continue to be necessary to meet the needs of lower-income households. But where it is simply a matter of incentive, or lack of technical knowledge, or lack of financing sources, subsidy does not necessarily have to be brought into play. What seems to be required are comprehensive municipal housing conservation strategies, of which rehabilitation financing assistance and M&O bylaw administration are but two - albeit two most important - components, along with the provision of encouragement and advice to property owners.

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[138] Hale, op. cit.

The present study, and its 1982 forerunner, have now established a data base from which we can go forward to determine the next steps by which M&O bylaw administration can best be fitted into such a comprehensive maintenance strategy. Such an examination will also help shape CMHC's role in facilitating housing maintenance strategies suitable to the late 1980's.

What is required now is a quantitative and qualitative analysis of what actually takes place:

- How many of the 400-odd municipalities that have M&O bylaws actually administer them?
    - To what extent is the presence of an active program related to the nature of the housing stock, e.g., predominance of rental housing; rooming houses; large, formerly single-family houses, divided into apartments?
    - What motivates municipal elected officials to support/oppose M&O bylaw programs? To what extent do they understand the linkage between the deterioration of the housing stock and of the municipal tax base?
    - What resources do municipalities devote to M&O bylaw administration?
- What are the municipal inspection strategies:
    - Inspect only on complaint basis?
    - Inspections by geographical zones?
    - Inspections when occupancy changes?
- What are the various compliance techniques?
    - Which techniques are suited to which sets of circumstances?
    - How effective are the various compliance techniques under various sets of circumstances?
    - How effective is the bylaw:
        - ° in getting property repaired originally?
        - ° in maintaining it in a state of repair?
        - ° in dealing with tenants as well as owners?
    - What are the attitudes, role and participation of the judiciary?
    - What is the role of property owners, both homeowners and landlords? What is the role of tenants, of community groups?
- Are there negative side effects, and if so, how can they be avoided?

- What difference has M&O bylaw administration made in achieving the RRAP objectives of bringing about thorough rehabilitation in the first instance, and in promoting subsequent maintenance?
  - A comparative study involving selected pairs of neighbourhoods similar in all respects except for the pressure or absence of active M&O bylaws administration could reveal answers to this and the following questions.
  - Has linking M&O bylaw administration to rehabilitation resulted in more thoroughly rehabilitated, and hence more viable, neighbourhoods?
  - Has it resulted in more repair work being done with less funds?
  - Has it resulted in more lasting rehabilitation?
- How does the M&O bylaw administration process relate to a broader housing conservation strategy? What are the elements of such strategies? What communities have developed them?

Once these issues have been examined, one can then examine:

- Ways in which M&O programs should evolve;
- Ways in which jurisdictions (provinces as well as municipalities) not now active with M&O bylaws can be so motivated;
- Federal/Provincial potential roles as facilitators.

We have moved from an era of relative financial plenty to one of restraint. This means that we can no longer afford the luxury of resolving the problem of substandard housing by simply throwing money at it, although there is no question but that financial aid will always have to be an element of the approach.

But we have failed to explore to anywhere near their full potential the other possible elements of a comprehensive housing maintenance strategy, including, most notably, imaginative, consumer-oriented, M&O bylaw programs.

Fortunately, today's climate and today's circumstances are far more propitious to undertaking such an approach than they were a dozen years ago.

APPENDIX "A"

ENABLING LEGISLATION
FOR
PROPERTY MAINTENANCE
AND
OCCUPANCY BYLAWS

NOTE: While the report makes mention of enabling legislation contained in the charters of individual cities, only enabling legislation application province-wide is reproduced here.

TABLE OF CONTENTS

APPENDIX "A"

Province	Act(s) containing Enabling Legislation	Page
Newfoundland	Urban and Rural Planning Act	1
Prince Edward Island	Municipalities Act	3
Nova Scotia	Towns Act	4
Nova Scotia	Municipal Act	8
New Brunswick	Municipalities Act	13
New Brunswick	Community Planning Act	14
Quebec	Cities and Towns Act	16
Ontario	Planning Act	17
Manitoba	Municipal Act	28
Saskatchewan	Saskatchewan Housing Corporation Act	36
Saskatchewan	Urban Municipalities Act	37
Alberta	Municipal Government Act	40

EXCERPTS FROM NEWFOUNDLAND
URBAN & RURAL PLANNING ACT
AS AMENDED TO FEBRUARY 1983

Control and use of land.

37.-(1) When the Municipal Plan comes into effect the Authorized Council shall develop fully a scheme for the control of the use of land in strict conformity with the Municipal Plan or any further plan or scheme, and without limiting the generality of the foregoing, shall prepare

(a) land use zoning regulations;

(b) subdivision regulations; and

(c) such other regulations in compliance with the requirements of Part VIII of this Act as the Authorized Council may deem necessary.

(2) Regulations made under subsection (1)

(a) shall, subject to paragraph (e) of section 72 be administered and enforced by the Authorized Council;

(b) may from time to time by order be amended by the Minister to conform to the provisions of Part VIII of this Act or as directed by the Lieutenant-Governor in Council; and

(c) may provide for the appointment of a local board of appeal by the Authorized Council and establish the powers and rules of procedure of such a board.

Submission to Board.

38. Before the scheme referred to in Section 37 is adopted by resolution of the Authorized Council two copies thereof shall be sent to the Director of Urban and Rural Planning who shall advise the Authorized Council as to the form and content of the scheme and its conformity with this Act.

Submission to Minister.

39.-(1) The Authorized Council shall submit any scheme adopted or regulations made pursuant to section 37 to the Minister for approval.

(2) The Minister may approve or disapprove any scheme or any regulations submitted to him for approval under subsection (1), or may approve any part of such scheme or regulations, subject to such qualifications as may appear to him to be necessary or desirable.

(3) A notice of an approval given by the Minister under this section shall be published in the Gazette and in a newspaper having general circulation in the area where there is such a newspaper.

Date of coming into effect.

40. Any regulations approved by the Minister under Section 39 shall come into effect on the date of publication of a notice to that effect in The Newfoundland Gazette.

Amendment or revocation.

41. Regulations brought into effect under section 40 may be amended or revoked at any time in the same manner in which those regulations ere brought into effect and any such amendment or revocation shall be read together with and form part of the regulations.

PART VIII REGULATIONS

Regulations

71.(1) In order to promote the objects of this Act and for the purpose of giving effect to its provisions according to their true intent, the Minister may, subject to the approval of the Lieutenant-Governor in Council, make, or, as required by this Act, the Minister may approve, such regulations as in his opinion are necessary or desirable for carrying out the spirit, intent and meaning of this Act in relation to matters for which no express provision for implementation has been made or in respect of which only partial or imperfect provision has been made.

(2) Without limiting the generality of subsection (1), regulations shall be made for the purpose of regulating, controlling, directing, prohibiting, or licensing development and controlling and directing the design, subdivision and appearance, and the maintenance, use and occupancy of buildings, land and developments.

EXCERPTS FROM PRINCE EDWARD ISLAND
MUNICIPALITIES ACT - 1983

Part VIII, Municipal Powers, Section 31, reads: "The council of a town or village set out in Schedule 1 may provide..."

(w) building and standards control;
(x) regulation of real property maintenance.

Part XI, Bylaws.

55. A council may make bylaws that are considered expedient and are not contrary to this or any other Act of regulations for the peace, order and good government of the municipality, the provision of municipal services and any other matter within the jurisdiction of the municipality.

General power

56. 1) Municipal bylaws may create offences, prescribe penalties not exceeding a fine of $500 and prescribe means of enforcement.

Penalties and enforcement

2) Violation of a municipal bylaw may be restrained by injunction.

Injunctions

59. Before making any bylaw that affects the general use and enjoyment of residential property in the muncipality, the council shall give an opportunity for the expression of opinion by residents by publishing a notice in a newspaper circulating in their area indicating in general terms the nature of the proposed bylaw and the date, time and place of the council meeting at which it will be considered.

Bylaws affecting the use of residential property

NOVA SCOTIA

EXCERPTS FROM:

CHAPTER T-15

TOWNS ACT
cited as
R.S.N.S., 1967, Chapter 309

BYLAWS AND ORDINANCES

Bylaws

221 The town council, in addition to any power to make bylaws and ordinances elsewhere in this or in any other Act conferred, shall have power to make bylaws in respect of all matters coming within the following classes of subjects, and may by bylaw from time to time amend, alter or repeal such bylaws, that is to say:

...

(77)(i) prescribing minimum standards of sanitation, plumbing, water supply, lighting, wiring, ventilation, heating, access, maintenance, appearance, construction and material for buildings occupied for residential purposes or parts thereof occupied for residential purposes, whether the building or the residential part thereof has been erected, constructed or converted to residential purpose before or after the passing of this clause or of the bylaw; and

(ii) limiting the number of persons who may reside in any such building or residential part thereof; and

(iii) imposing on the owner, tenant or occupant or any one or more of them, the responsibility for complying with the bylaw; and

(iv) providing for notice to an owner, occupant or tenant or one or more of them to discontinue the use of a building or part thereof as a place of residence in violation of the bylaw and prescribing penalties for such us after notice to discontinue such use has been given;

Application of Section

222 (1) The council may pass a bylaw providing that subsections (2), (3), (4) and (5) of this Section apply to the town or to such part thereof as the bylaw prescribes; and subsections (2), (3), (4) and (5) do not apply to a town or to any part thereof unless a bylaw declaring that they do apply is in force.

Unsightly or Dangerous or Unhealthful Premises

(2) No person shall

(a) permit a building, fence, wharf, wall or other structure owned or occupied by him and being within an area mentioned in any such bylaw, to be or to become partly demolished, decayed or deteriorated so as to be dangerous, unsightly, offensive or unhealthful; or

(b) permit to remain on any land owned or occupied by him and being in any such area any ashes, junk, rubbish, refuse, cleanings of yards, bodies, or parts of automobiles or other vehicles or machinery, or any other thing, so as to be dangerous, unsightly, unhealthful or offensive.

Notice to Remedy Condition

(3) Should a condition described in subsection (2) arise or exist, whether it arose before or after the passing of this Act or of the bylaw, the council may instruct the clerk to serve notice on the owner or occupier requiring him to remedy the condition described in the notice; such notice may be served by being posted in a conspicuous place upon the building, fence, wharf, wall, structure or land or may be personally served upon the person named therein.

Failure to Comply with Notice

(4) In event of the failure of the person so served with notice, to remedy the condition described in the notice within thirty days after service, any person authorized by the council may enter upon the land upon which the condition exists, without writ, warrant or other legal process and remedy the condition which the council has required to be remedied; and the actual cost of so doing may be recovered as a debt from the person so served, by action brought by the clerk in the name of the town in any court of competent jurisdiction within sixty days after the cost is incurred.

Penalty

(5) After notice has been served under subsection (3) any person who permits or causes a condition referred to in this Section or who fails to comply with the terms of said notice, shall be liable on summary conviction to a penalty of not less than one hundred dollars and not more than one thousand dollars, and in default of payment to imprisonment for a period of not less than fifteen days nor more than three months, and every day during which such condition is not remedied is a separate offence. R.S., c.309, s.222; 1978, c.19, s.4.

Fixing of Tax on Veterans' Land Act Property

223 Notwithstanding anything contained in this Act or in the Assessment Act or in any other Act, any council may by bylaw fix for such term of years and upon such conditions as the council may determine the amount of the annual tax to be levied in respect of property held by a veteran under an agreement pursuant to the Veterans' Land Act (Canada) during such time as such property is held and occupied by a veteran under the provisions of the said Veterans' Land Act. R.S., c.309, s.223.

Bylaws Effective upon Approval

224 (1) Every bylaw made by the council under the authority of this or any other Act shall be subject to the approval of the Minister and when so approved shall have the force of law.

Revocation of Approval

(2) Notwithstanding the approval of any such bylaw as aforesaid the Minister may subsequently revoke his approval of the same and after such revocation the bylaw shall cease to have any force or effect.

Transmission of Certified Copies of Bylaw to Minister

(3) Two copies of every bylaw enacted by the council under the provisions of this Act or of any other Act, shall be certified by the clerk to be true copies and shall be transmitted to the Minister. R.S., c.309, s.224.

Prescribing of Maximum Penalty for Violation of Bylaw

227 (1) Except as otherwise provided, the council may by bylaw prescribe a maximum penalty not exceeding one thousand dollars for the violation of any bylaw of the town, and may in the bylaw provide that in default of payment of the penalty the offender may be imprisoned for a maximum period not exceeding ninety days.

Prescribing of Minimum Penalty for Violation of Bylaw

(2) The council may by bylaw prescribe a minimum penalty not exceeding one hundred dollars for the violation of any bylaw of the town, and may in the bylaw provide that in default of payment of the penalty the offender may be imprisoned for a minimum period not exceeding ten days.

Where No Penalty Prescribed

(3) Where no penalty for violation of a bylaw is prescribed, every person who violates a bylaw shall be liable upon summary conviction to a penalty not exceeding two hundred and fifty dollars and in default of payment to imprisonment for a period not exceeding thirty days.

No Imprisonment without Alternative of Payment

(4) No bylaw shall prescribe imprisonment without the alternative of payment of a penalty. 1980, c.49, s.23.

Penalty for Violating Certain Building Bylaws

228 (1) Every person who contravenes or fails to comply with any bylaw of the town made under the provisions of clauses (76), (76A) or (77) of Section 221 shall for each such offence be liable to a penalty of not less than one hundred dollars nor more than one thousand dollars and in default of payment to imprisonment for a period of not less than fifteen days nor more than three months.

Separate Offence

(2) Every day during which any such contravention or failure to comply continues shall be deemed a fresh offence. R.S., c.309, s.228; 1970, c.72, s.3; 1976, c.4, s.9.

Right of Action for Contravention of Building Bylaw

229 (1) In the event of any contravention or failure to comply with any bylaw of the town made under clauses (76), (76A) or (77) of Section 221 the town may in its own name bring an action or other legal proceedings in respect of the same, which the Trial Division of the Supreme Court or a Judge thereof may hear and determine at any time, and therein may, in addition to any other remedy or relief:

(a) make an order restraining the continuance or repetition of any such contravention or failure; or

(b) make an order directing the removal or destruction of any building or structure of part thereof, so contravening or failing to comply, or in respect of which any such contravention or failure has taken place, and that upon failure to comply with such order the town council may remove or destroy or may cause to be removed or destroyed such building or any part thereof, at the expense of the owner of the same; or

(c) make such other order as is required to enforce the bylaw, and as to costs, and as to the recovery of the expense of any such removal or destruction, as to the Court or judge [Judge] seems right.

Where Offence Repeated after Proceedings Commenced

(2) In the event of any fresh offence by the same person against the bylaw after any such action or other legal proceeding has been commenced by the town, it shall not be necessary to bring any other action or proceeding, but the action or proceeding already begun may be from time to time amended so as to include subsequent violations of the bylaw, and the Court or judge [Judge] shall therein hear and deal with the whole matter of such violations.

Where Owner of Building Cannot Be Found

(3) If no owner of any building or structure in respect of which any such contravention or failure to comply is taking place, or has taken place, can be found within the town, the town council may post, or may cause to be posted, a notice of such contravention or failure, and of the intention to take proceedings in respect thereof, upon such building or structure, and at the expiry of ten days from the first day of such posting any proceedings in respect thereof may be had and taken ex parte.

NOVA SCOTIA
EXCERPTS FROM:
CHAPTER M-23
MUNICIPAL ACT
cited as

R.S.N.S., 1967, Chapter 192
(Updated through 11 June 1984)

BYLAWS

Bylaws

191 The council, in addition to any power to make bylaws elsewhere or by any other Act conferred, shall have power to make bylaws, (not inconsistent with any Act in force in the Province) in respect of all matters coming within the following classes of subjects and may by bylaw from time to time amend or repeal such bylaws, that is to say, for:

...

(93) regulating the erection, construction, alteration and repair of buildings within the municipality, including the location, foundation, material to be used, construction of chimneys, party walls, sewerage, plumbing, heating, roofing, windows, and doors, and generally all other matters and things necessary, expedient or desirable to guard against fire and to provide for the safety and health of occupants and of the public generally and to improve the general appearance of the municipality; and prohibiting the erection, construction, alteration or repair of and providing for the demolition or removal of a building which may be erected, constructed, altered or repaired contrary to said bylaws and authorizing the appointment of a building inspector, and requiring any person to obtain a permit from the building inspector before erecting, constructing, altering or repairing any building or changing the use or occupancy thereof;

...

(95) prescribing minimum standards of sanitation, plumbing, water supply, lighting, wiring, ventilation, heating, access, maintenance, appearance, construction and material for buildings occupied for residential purposes or parts thereof occupied for residential purposes, whether the building or the residential part thereof has been erected, constructed or converted to residential purposes before or after the passing of this clause or of the bylaw; and limiting the number of persons who may reside in any such building or residential part thereof; and imposing on the owner, tenant or occupant or any one or more of them, the responsibility for complying with the bylaw; and providing for notice to an owner, occupant or tenant or one or more of them to discontinue the use of a building or part thereof as a place of residence in violation of the bylaw and prescribing penalties for such use after notice to discontinue such use has been given;

(96) providing for the inspecting of buildings and structures within the municipality for the purpose of preventing fires, accidents and damage or injury to property or persons; and compelling the owners or occupiers thereof to make such alterations or repairs as may be deemed necessary or to demolish or remove any building or structure which is a menace to health or safety;

...

Territorial Application

192 The council may provide in any bylaw made under this or any Act that the bylaw applies to an area, defining the limits thereof; if no such restriction is imposed the bylaw applies to the municipality as a whole. R.S., c.192, s.192.

Approval of Bylaw

193 (1) Every bylaw made by council under the authority of this or any other Act shall be subject to the approval of the Minister, and when so approved shall have the force of law.

Revocation of Approval

(2) Notwithstanding the approval of a bylaw as aforesaid the Minister may subsequently revoke his approval of the same or of part thereof and after such revocation such bylaw or the part in respect of which approval is revoked, as the case may be, shall be deemed to be repealed.

Certification and Delivery of Bylaw

(3) Two copies of every bylaw enacted by the council under the provisions of this or any Act, shall be certified by the clerk under the seal of the municipality, to be true copies and shall be transmitted to the Minister, R.S., c.192, s.193.

Maximum Penalty Prescribed

194 (1) Except as otherwise provided, the council may by bylaw prescribe a maximum penalty not exceeding one thousand dollars for the violation of any bylaw of the municipality and may in the bylaw provide that in default of payment of the penalty the offender may be imprisoned for a maximum period not exceeding ninety days.

Minimum Penalty Prescribed

(2) The council may by bylaw prescribe a minimum penalty not exceeding one hundred dollars for the violation of any bylaw of the municipality, and may in the bylaw provide that in default of payment of the penalty the offender may be imprisoned for a minimum period not exceeding ten days.

General Penalty

(3) Where no penalty for violation of a bylaw is prescribed, every person who violates a bylaw shall be liable upon summary conviction to a penalty not exceeding two hundred and fifty dollars and in default of payment to imprisonment for a period not exceeding thirty days.

...

Alternative to Pay Penalty

(4) No bylaw shall prescribe imprisonment without the alternative of payment of a penalty. 1980, c.44, s.18; 1984, c.29, s.4.

195 Repealed 1980, c.44, s.19.

Penalty for Clauses 191(93), (93A) or (95)

196 (1) Every person who contravenes or fails to comply with any bylaw of the municipality made under the provisions of clauses (93), (93A) or (95) of Section 191 shall for each such offence be liable to a penalty of not less than one hundred dollars nor more than one thousand dollars and in default of payment to imprisonment for a period of not less than fifteen days nor more than three months.

Fresh Offence

(2) Every day during which any such contravention or failure to comply continues shall be deemed a fresh offence. R.S., c.192, s.196; 1970, c.54, s.4; 1976, c.3, s.5.

Expense of Person in Default

197 When any council or standing committee thereof by bylaw or otherwise lawfully directs that any matter or thing shall be done, such council or a standing committee if so authorized by resolution of council theretofore or thereafter passed may if not less than thirty days notice has been given to the person so directed in the manner provided by the bylaw or otherwise, in default of its being done by a person required to do the same, cause or delegate to a standing committee power to cause such matter or thing to be done at the expense of the person in default, and may recover the expense thereof with costs from such person as a debt due the municipality by action commenced by the clerk in the name of municipality. R.S., c.192, s.197.

Right of Action

198 (1) In the event of any contravention of or failure to comply with a bylaw made under clauses (93), (93A), (94), (95), (96) or (101) of Section 191, the clerk may when authorized by the council or by a standing committee, bring in the Trial Division of the Supreme Court an action or other legal proceeding in respect thereof, in the name of the municipality, for any or all of the remedies provided by this Section.

Powers of Court

(2) The Court or a judge [Judge] thereof may hear and determine the same at any time, and in addition to any other remedy or relief may

(a) make orders, restraining the continuance or repetition of such contravention or failure and the new or further contravention or failure in respect of the same building or structure;

(b) make orders directing the removal or destruction of the building or structure or part thereof which is in contravention of or fails to comply with the bylaw; and authorizing the council or a standing committee thereof, or an official of the municipality, if any such order is not complied with, to enter upon the land and premises with necessary workmen [workers] and equipment and to remove and destroy the building or structure or part thereof at the expense of the owner; and

(c) make such further order as to the recovery of the expense of any such removal and destruction, and to enforce the bylaw and as to costs, as the Court or a Judge deems proper;

and any such order may be interlocutory, interim or final.

One Action for Separate Offences

(3) In event of a fresh offence by the same person against the bylaw after such action or other legal proceeding has been commenced, it shall not be necessary to bring any other action or proceeding, but the action or proceeding already begun and any pleading therein may be amended from time to time and at any time before final judgment so as to include such fresh offences and the Court of [or] judge [Judge] shall hear, deal with and determine the whole matter of such violations.

If Owner Cannot be Found

(4) If no owner of any building or structure in respect of which any such contravention or failure to com-[comply] is taking place or has taken place can be found by the clerk within the municipality, the clerk may post or cause to be posted, a notice of such contravention or failure to comply and of the intention to take action or proceedings in respect thereof, upon such building or structure, and after the expiration of ten days from the first days of such posting, an action or proceedings in respect thereof may be had and taken ex parte; the name of the last person appearing in the records in the office of the Registrar of Deeds [registrar of deeds] for the registration district in which the lands are situated, as the owner thereof, may be used as the defendant. R.S., c.192, s.198; 1972, c.2, s.9; 1976, c.3, s.6.

Evidence of Bylaw

199 The production of a copy of any bylaw made under the provisions of this or any other Act purporting to be certified by the clerk under his hand and the seal of the municipality to be a true copy of a bylaw passed by the council and approved by the Governor in Council or the Minister as the case may be, shall, without proof of the official character of the clerk or of his signature or of such seal, be sufficient evidence of such bylaw. R.S., c.192, s.199.

...

Application of Section

204 (1) The council may pass a bylaw providing that this Section applies to such area or areas as the bylaw prescribes.

No Dangerous or Unsightly Premise

(2) No person shall permit property in the area or areas mentioned in any such bylaw, owned or occupied by him, to be or to become partly demolished, decayed or deteriorated so as to be in a dangerous, unsightly or unhealthful condition, or shall permit to remain on any part of property in such area or areas, owned or occupied by him, any ashes, junk, cleaning of yards, bodies or parts of automobiles or other vehicles or machinery, or other rubbish or refuse, so as to cause such place to be dangerous, unsightly, unhealthful or offensive to all or any part of the public.

Notice to Owner or Occupier

(3) Should such condition arise or exist, whether it arose before or after the passing of this Act or of the bylaw, any standing committee of the council may instruct the clerk to serve notice on the owner or occupier requiring him to remedy the condition and specifying in such notice what is required to be done; such notice may be served by being posted in a conspicuous place upon the property or may be personally served upon the person named therein.

Remedy of Condition by Committee

(4) In event of the failure of the person so notified, to comply with the requirements of such notice within thirty days after service, any person authorized by the council or such committee may enter upon the said property without writ, warrant or other legal process and remedy the condition required to be remedied; and the actual cost of so doing may be recovered as a debt from the person so served, by action brought by the clerk in the name of the municipality in any court of competent jurisdiction, provided that the writ of summons be issued within sixty days after the cost is incurred.

Penalty

(5) After notice has been served under subsection (3) if proceedings are not taken under subsection (4) the owner, occupier or other person who aids, assists, permits or causes a condition referred to in this Section or who fails to comply with the terms of said notice, shall be liable on summary conviction to a penalty of not less than one hundred dollars and not more than one thousand dollars, and in default of payment to imprisonment for a period of not less than fifteen days nor more than three months, and every day during which such condition is not remedied is a separate offence. R.S., c.192, s.204; 1970, c.54, s.5; 1978, c.23, s.9.

NEW BRUNSWICK
EXCERPTS FROM:
CHAPTER M-22
MUNICIPALITIES ACT

CODES

93 The Lieutenant Governor in Council may by regulation approve codes that may be adopted by a municipality respecting

(a) standards for maintenance and occupancy of buildings and premises.

...

94(1) A council may by bylaw adopt a code approved under section 93 or a portion of such a code, with or without setting forth its provisions, and may in the bylaw provide for the administration and enforcement of the code.

94(2) Where a council adopts a code under subsection (1) without setting forth its provisions, any penalty clauses contained in the code shall be deemed not to have been adopted.

94(3) Where a council makes a bylaw respecting standards for maintenance and occupancy of buildings and premises, any provision of the bylaw that conflicts with a provision of the code approved by the Lieutenant Governor in Council under paragraph 93(a) or that is not contained in the code has no affect unless approved by the Lieutenant Governor in Council.

94(4) Before making a bylaw under subsection (1) or (3) the council shall

(a) publish a notice of its intention to consider the passing of the bylaw in a newspaper having general circulation in the municipality, which notice shall specify the code or portion thereof that it proposes to adopt, and

(b) make a copy of the bylaw and the code available for inspection at the office of the clerk for not less than fifteen days before the bylaw is passed.

94(5) Where a bylaw made pursuant to subsection (1) or (3) is in force in a municipality, the clerk shall keep available in his office for public examination a copy of the code or portion thereof adopted. 1966, c.20, s.95; 1970, c.37, s.3; 1972, c49, s.8; 1973, c.62, s.11.

NEW BRUNSWICK

EXCERPTS FROM:

CHAPTER C-12

COMMUNITY PLANNING ACT

34(3) Subject to subsection (4), for greater certainty without limiting the general power conferred by subsection (1) or (2), a zoning bylaw mentioned therein shall divide the municipality into zones, prescribe the purposes for which land, buildings and structures in any zone may be used, and prohibit the use of land, buildings and structures for any other purposes, and may ...

(e) require the improvement, removal or demolition of any building or structure that, in the opinion of the council, is dilapidated, dangerous or unsightly, and empower the council to improve, remove or demolish such building or structure at the expense of the owner or to acquire the parcel of land on which such building or structure is situated;

...

94(1) Where a person other than a municipality

(a) contravenes or fails to comply with

(i) any provision of this Act or a bylaw or regulation hereunder,

(ii) an order or demand made pursuant to this Act or a bylaw or regulation hereunder,

(iii) any terms and conditions imposed pursuant to subsection 20(4), subsection 32(5), paragraph 34(3)(h), paragraph 34(4)(c), section 35, subsection 46(1), or subsection 87(1) or (2), or

(iv) a decision of the Board; or

(b) obstructs any person in the performance of his duty under this Act,

the municipality, the Minister or a person designated for such purpose by the council of the Minister may make an application to The Court of Queen's Bench of New Brunswick or any judge thereof for any of the orders described in subsection (2) whether or not a penalty has been provided or imposed hereunder for such contravention, failure or obstruction. 1974, c.6(Supp.), s.15; 1979, c.48, s.19.

94(2) In proceeding under this section, the judge may

(a) make an order restraining the continuance or repetition of the contravention, failure or obstruction;

(b) make an order directing the removal or destruction of any building or structure or part thereof in respect of which the contravention or failure has taken place, and that on failure to comply with such order a person designated by the council or the Minister, as the case may be, may remove or destroy such building or structure or part thereof at the expense of the owner; and

(c) make such other order as is required to enforce the provision in respect of which the action was instituted and as to costs and the recovery of the expense of the removal or destruction as the judge deems fit.

94(3) Proceedings under this section may be taken without joining the Attorney General. 1981, c.6, s.1.

94(4) The judge may act under this section at any time, notwithstanding it is vacation. 1972, c.7, s.94.

94.1(1) Upon application of a person directly affected by the operation or non-enforcement of a bylaw, resolution or order enacted or made hereunder by a council, or of any resident of the municipality, The Court of Queen's Bench of New Brunswick or a judge thereof may by order

(a) quash it in whole or in part for illegality, or
(b) declare that it is in force and effect, in whole or in part. 1979, c.41, s.19.

94.1(2) The Court of Queen's Bench of New Brunswick or a judge thereof may refuse to hear an application made under subsection (1) where

(a) the bylaw, resolution or order that is the subject of the application has been the subject of a previous application under that subsection, and
(b) in his opinion, the application raises substantially the same matters as were adjudicated upon in the previous application. 1980, c.38, s.8.

94.1(3) Proceedings under this section may be taken without joining the Attorney General, 1974, c.6(Supp.), s.16; 1981, c.6, s.1.

95(1) A person who does anything mentioned in paragraph 94(1)(a) or (b) is guilty of an offence and is liable on summary conviction to a fine of not less than twenty-five and not more than one hundred dollars for each day the offence continues and in default of payment to imprisonment in accordance with subsection 31(3) of the Summary Convictions Act.

95(2) The conviction of a person for an offence under this Act does not operate as a bar to further prosecution for the continuation of such offence.

95(3) Subject to subsection (4), a prosecution for an offence under this Act shall not be commenced after six months from the discovery of such offence. 1977, c.10, s.36.

95(4) Where an appeal is made to the Board with respect to an alleged offence, the time period referred to in subsection (3) shall be extended by the elapsed time between
(a) the date of the notice of appeal, and
(b) the date of the final disposition of such appeal. 1972, c.7, s.95; 1977, c.10, s.36.

QUÉBEC

SECTION 413
of the
CITIES AND TOWNS ACT

Bylaws 413. The council may make bylaws:

Dwellings: IV - Sanitary condition of houses, etc.

(8) to regulate the alteration, maintenance and quality of dwellings, rooms offered for rent, tenement and apartment houses and their dependencies; to prohibit their occupancy if they are not in conformity with the bylaw and with the laws and regulations of Québec; to render the bylaw applicable to existing premises;

ONTARIO

SECTIONS 31, 32, and 33
of the
PLANNING ACT, 1983

Interpretation

31.—(1) In this section,

(a) "committee" means a property standards committee established under this section;

(b) "occupant" means any person or persons over the age of eighteen years in possession of the property;

(c) "officer" means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;

(d) "owner" includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

(e) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;

(f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform with the standards established in a by-law passed under this section.

Adoption of policy statement

(2) Where there is no official plan in effect in a local municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement containing provisions relating to property conditions.

Standards for maintenance and occupancy

(3) If,

(a) an official plan that includes provisions relating to property conditions is in effect in a local municipality; or

(b) the council of a local municipality has adopted a policy statement as mentioned in subsection (2),

the council of the municipality may pass a by-law,

(c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards;

(d) for requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition;

(e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

Inspection

(4) Subject to subsection (5), when a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.

Entry into dwelling place
R.S.O. 1980, c. 400

(5) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, an officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

Notice of violation

(6) If, after inspection, the officer is satisfied that in some respect the property does not conform with the standards prescribed in the by-law, he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to, the owner of the property and all persons shown by the records of the land registry office and the sheriff's office to have any interest therein a notice containing particulars of the nonconformity and may, at the same time, provide all occupants with a copy of such notice.

Contents of order

(7) After affording any person served with a notice provided for by subsection (6) an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing,

(a) the municipal address or the legal description of such property;

(b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and

(c) the final date for giving notice of appeal from the order.

Order to be sent to last known address

(8) A notice or an order under subsection (6) or (7), when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

Substituted service

(9) If the officer is unable to effect service under subsection (6) or (7), he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

Registration of notice

(10) An order under subsection (7) may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under subsection (7) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order.

Property standards committee

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such persons, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

Chairman, acting chairman, secretary

(12) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member as acting chairman and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

Remuneration

(13) The members of the committee shall be paid such compensation as the council may provide.

Filing of documents, etc

R.S.O. 1980, c. 302

(14) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents.

Quorum and procedure

(15) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection (17) shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

Appeal to committee

(16) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the sec-

retary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed.

Decision on appeal

(17) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

Appeal to judge

(18) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection (17) may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and,

(a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;

(b) the appointment shall be served in the manner prescribed by the judge; and

(c) the judge on such appeal has the same powers and functions as the committee.

Effect of decisions

(19) The order, as deemed to have been confirmed under subsection (16), or as confirmed or modified by the committee under subsection (17) or, in the event of an appeal to the judge under subsection (18), as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

Power of corporation to repair or demolish

(20) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies,

(a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and

(b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

Certificate of compliance

(21) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection (3), and the council of a municipality may prescribe a fee payable for such a certificate where it is issued at the request of the owner.

Enforcement

(22) An owner who fails to comply with an order that is final and binding under this section is guilty of an offence and on conviction is liable to a fine of not more than $500 for each day that the contravention has continued.

Emergency order

(23) Despite any other provisions of this section, if upon inspection of a property the officer is satisfied there is nonconformity with the standards prescribed in the by-law to such extent as to pose an immediate danger to the health or safety of any person the officer may make an order containing particulars of the nonconformity and requiring remedial repairs or other work to be carried out forthwith to terminate the danger.

Emergency powers

(24) After making an order under subsection (23), the officer may, either before or after the order is served, take or cause to be taken any measures he considers necessary to terminate the danger, and for this purpose the municipality has the right, through its servants and agents, to enter in and upon the property from time to time.

No compensation where reasonable exercise of powers

(25) The officer, the municipality or anyone acting on behalf of the municipality is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (24).

Service of order and statement

(26) Where the order was not served before measures were taken by the officer to terminate the danger, as mentioned in subsection (24), the officer shall forthwith after the measures have been taken, serve or send copies of the order, in accordance with subsections (7), (8) and (9), on or to the owner of the property and all persons mentioned in subsection (6) and each copy of the order shall have attached thereto a statement by the officer describing the measures taken by the municipality and providing details of the amount expended in taking the measures.

Separate service of statement

(27) Where the order was served before the measures were taken the officer shall forthwith after the measures have been taken serve or send a copy of the statement mentioned in subsection (26), in accordance with subsections (7), (8) and (9), on or to the owner of the property and all persons mentioned in subsection (6).

Application to county judge

(28) Forthwith after the requirements of subsection (26) or (27) have been complied with the officer shall apply to a judge of the county or district court of the judicial district in which the property is situate for an order confirming the order made under subsection (23), and,

(a) the judge shall, in writing, appoint a day, time and place for the hearing of the application and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;

(b) the appointment shall be served in the manner prescribed by the judge; and

(c) the judge in disposing of the application may confirm the order or may modify or quash it and shall make a determination as to whether the amount expended by the municipality in taking the measures to terminate the danger may be recovered by the municipality in whole, in part or not at all.

Disposition by judge final

(29) The disposition of the application under clause (28) (c) is final and binding.

Recovery of expense

R.S.O. 1980, c. 302

(30) Where a municipality demolishes or repairs property as mentioned in subsection (20) or takes measures to terminate a danger as mentioned in subsection (24) the municipality may recover the expense incurred in respect thereof by any or all of the methods provided for in section 325 of the *Municipal Act*, except that such amount, if any, as is to be borne by the municipality as a result of a determination under clause (28) (c) may not be recovered. 1983, c. 1, s. 31.

Grants or loans for repairs

32.—(1) When a by-law under section 31 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 31 (6) to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe.

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Loans collected as taxes, lien on land

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged. 1983, c. 1, s. 32.

Registration of certificate

33.—(1) In this section,

Interpretation

(a) "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

(b) "residential property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

(2) When a by-law under section 31 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless he is the holder of a demolition permit issued by the council under this section.

Establishment of demolition control area by by-law

(3) Subject to subsection (6), where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit.

Council may issue or refuse to issue permit

Appeal to O.M.B.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final.

Notice of appeal

(5) The person appealing to the Municipal Board under subsection (4) shall, in such manner and to such persons as the Board may direct, give notice of the appeal to the Board.

Application for demolition permit where building permit issued

(6) Subject to subsection (7), the council shall, on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished.

Conditions of demolition permit

(7) A demolition permit under subsection (6) may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property is commenced, and on the condition that on failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of $20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

Registration of certificate

(8) Where the clerk of the municipality adds a sum of money to the collector's roll under subsection (7), a certificate signed by the clerk setting out the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the roll is discharged.

Appeal to O.M.B.

(9) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, he may appeal to the Municipal Board for a variation of the conditions and,

where an appeal is brought, the Board shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

Application to council for relief from conditions of demolition permit

(10) Where any person who has obtained a demolition permit under subsection (6) that is subject to conditions under subsection (7) considers that it is not possible to complete the new building within the time specified in the permit or where he is of the opinion that the construction of the new building has become not feasible on economic or other grounds, he may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

Powers of council on application

(11) Where an application is made under subsection (10), the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

Appeal to O.M.B.

(12) Any person who has made application to the council under subsection (10) may appeal from the decision of the council to the Municipal Board within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under subsection (11) and the decision of the Board shall be final.

Offence

(13) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than $20,000 for each dwelling unit contained in the residential property, the whole or any portion of which residential property has been demolished, or to imprisonment for a term of not more than six months, or to both.

Standards for health and safety remain in force

(14) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situate within an area of demolition control.

Certain proceedings stayed

(15) Subject to subsection (14), an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any by-law under section 31 or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection (4), until the Municipal Board has heard the appeal and issued its order thereon.

Application of R.S.O. 1980, c. 51, s. 5

(16) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in section 5 of the *Building Code Act*. 1983, c. 1, s. 33.

MANITOBA

SECTIONS 298 - 306
of the
MUNICIPAL ACT

298 (1) Repealed, S.M. 1974, c.33, s.10.

Bylaws for proper standards in dwellings and other structures.

298 (2) Without restricting the generality of subsection (2) of section 295, the council of any municipality may pass bylaws

(a) for fixing the standards of fitness for human habitation to which all dwellings shall conform;

(b) for fixing the standards relating to the state of repair and to the maintenance of the physical conditions of the exterior surfaces of dwellings, and of other buildings situated upon the site of a dwelling;

(c) for requiring the owners of dwellings that do not conform to the standards to make them so conform;

(d) for requiring the owner of a building, structure, or appurtenance that forms part of a dwelling, and that does not conform to the standards, to demolish all or any part thereof;

(e) for prohibiting the use of dwellings that do not conform to the standards;

(f) for authorizing the placarding, in such manner as the bylaw may specify, of dwellings that do not conform to the standards;

(g) for prohibiting the pulling down or defacing of any such placard;

(h) for governing and regulating persons in the use and occupancy of dwellings;

(i) for fixing standards for non-residential property or any class or classes thereof within the municipality or any part thereof and for prohibiting any person from using or permitting the use of any such non-residential property that does not conform to the standards; and

(j) for requiring the owner of any non-residential property and, to the extent that he is made responsible under the lease or agreement under which he occupies the property, the occupant thereof to repair and maintain the non-residential property in accordance with the standards or to demolish the whole or any part of the non-residential property.
Am.S.M. 1974, c.33, s.11.

Bylaws
298 (3) The council of a municipality may pass bylaws,

(a) for condemning, preventing the occupation of, and closing up, any dwelling reported by the health officer to be in an unsanitary condition;

(b) for imposing a penalty on the owner for permitting the dwelling to be in such a condition and providing for his prosecution;

(c) providing for the imposition of a penalty from day to day, not exceeding twenty dollars for every day the dwelling is permitted to remain in that condition; and

(d) for authorizing any enforcement officer to enter upon and inspect premises whereon there is any dwelling in an apparent unhealthful or unsafe condition or likely to be a cause of fire.

Notice to remedy default.
298 (4) Where upon inspection an enforcement officer finds any dwelling

(a) that does not comply with the standards established under subsection (2) of section 295, or under subsection (2) of this section; or

(b) that is in a condition to which clause (a) or (d) of subsection (3) applies;

he may, by notice given as prescribed by bylaw, to the owner or to the occupier, agent, or person in charge of the dwelling, order him, within such time as the enforcement officer specifies, to do or cause to be done such things as will, in the opinion of the enforcement officer, be sufficient to put the dwelling in a condition that complies with the standards mentioned in clause (a), or to which subsection (3) does not apply, as the case may be.

Offence.
298 (5) Subject to subsection (5) of section 295, every person who fails to comply with an order given to him by the enforcement officer under subsection (4) is guilty of an offence.

Defence to charge of committing an offence.
298 (6) Any person accused of an offence under subsection (5), may raise as a defence that, at the time the order of the enforcement officer was made, the dwelling complied with the standards mentioned in clause (a) of subsection (4), or was not in a condition to which subsection (3) applies, as the case may be, and, if the magistrate is satisfied that the building, structure, premises, or appurtenance did comply with those standards at that time or was not then in a condition to which subsection (3) applies, as the case may be, he shall acquit the accused.

Limitation on defence.
298 (7) Where a person accused of an offence under subsection (5), was the owner of the dwelling on the day the order of the enforcement officer was made, it is not a defence that he is no longer the owner thereof.

S.M. 1970, c.100, s.298; Am. S.M. 1974, c.33, ss. 10 & 11.

Advance of cost by municipality.
299 (1) Where the owner of any dwelling is unable to pay the cost of making it conform to the standards required in a bylaw passed under subsection (2) of section 295 or subsection (2) of section 298, or to put it in a condition to which subsection (3) of section 298 does not apply, the municipality may advance money to, or for the benefit of, the owner to the extent necessary to pay the cost; and the council of the municipality may pass bylaws for the issue of debentures to raise the money to be so advanced.

Lien for amount of advance.
299 (2) Where the municipality has advanced money as provided in subsection (1), it has a lien upon the land occupied by, or appurtenant to, the dwelling in respect of which the advance was made, for the amount of the advance together with interest thereon at the current rate charged in respect of moneys borrowed, as that rate is fixed by the board on application to it by the council.

Repayment of advance.
299 (3) The amount of an advance made under subsection (1), with interest thereon, is repayable to the municipality by the owner of the dwelling in equal consecutive annual instalments, which shall be paid over a period of years fixed by the council, but not exceedingly ten years, and one of the instalments shall be added in the tax roll to the taxes on the land mentioned in subsection (2), in each year during the period fixed under this subsection, and shall be collected in the same manner as ordinary taxes in arrears.

Varying periods.
299 (4) The period fixed under subsection (3) need not be the same in the case of each advance.

Certificate for registration.
299 (5) A certificate of the clerk of the municipality setting out the amount advanced to, or for the benefit of, any owner under subsection (1) and the rate of interest thereon, together with a description of the land occupied by, or appurtenant to, the dwelling in respect of which the amount was advanced, sufficient to identify the land, may be registered in the proper land titles office against the land upon proper proof by affidavit of the signature of the clerk.

Discharge of lien.
299 (6) Upon repayment in full to the municipality of the amount advanced and the interest thereon, a certificate of the clerk of the municipality showing the repayment may be registered in like manner as provided in subsection (5); and the land is thereupon discharged from liability with respect to the advance and interest thereon, and from the lien arising therefrom.

S.M. 1970, c. 100, s. 299.
W.C.s. 473; am.

Power to demolish buildings or make them conform to standards.
300 (1) Where the owner of any dwelling

(a) fails, within such time as may be specified, to make the dwelling conform to the standards required by a bylaw passed under subsection (2) of section 295 or subsection (2) of section 298, or to put it in a condition to which subsection (3) of section 298 does not apply; or

(b) fails to demolish all or any part of any building, structure, premises, or erection forming part of the dwelling as directed by the enforcement officer, the committee of council, or the commission, as the case may be;

the municipality, in addition to all other remedies, may make the dwelling conform to the standards, or put it in a condition to which subsection (3) of section 298 does not apply, or demolish, or cause to be demolished, all or any part of any building, structure, premises, or appurtenance forming part of the dwelling, and do any work on adjoining property necessitated by the work involved in making the dwelling conform to the standards, or putting it in the condition aforesaid, or in demolishing it or any part thereof.

Entry for enforcement.
300 (2) For the purposes of subsection (1), the officers, employees, and agents of the municipality may enter upon the lands of the owner; and the municipality is not liable to compensate the owner by reason of anything necessarily done by it, or on its behalf, under this section.

Lien for amount expended.
300 (3) The municipality has a lien upon the land occupied by, or appurtenant to, the dwelling in respect of any amounts expended by it under this section; and the certificate of the clerk of the municipality as to the amount expended is final, and that amount shall be added to the tax roll as taxes for the current year, and shall be collected as taxes.

S.M. 1970, c.100, s.300.

Notice to mortgagee.
301 Before a municipality advances money under section 299, or undertakes work under section 300 to cause a dwelling to conform to the standards prescribed as aforesaid, or to put it in a condition to which subsection (3) of section 298 does not apply, the municipality shall send by registered mail, to any person appearing, by the title to the land, to have a mortgage thereon, a notice in writing specifying where in the dwelling is defective; and, if all the specified defects are not remedied within one month of the receipt by the mortgagee of the notice, sections 299 and 300 apply.
S.M. 1970, c.100, s.301.

Right of entry.
302 An enforcement officer or any other officer, employee, or agent of a municipality, duly appointed and authorized for the purpose, may, at all reasonable times, without the consent of the owner or occupier and upon production of the necessary authority, if demanded, enter upon any land, building or premises in the municipality for the purpose of

(a) inspecting or reading any meter or other appliance or equipment; or

(b) examining any dwelling or other building thereon or any thing appurtenant to any such dwelling or building; or

(c) ascertaining whether compliance is being made with any bylaw or regulation enacted or made by the council of the municipality, or with this Act; or

(d) carrying into effect or enforcing any bylaw or regulation to which clause(s) applies, or any requirement of this Act.
S.M. 1970, c.100, s.302.

Buildings dangerous to public safety.
303 (1) Where in the opinion of the council of a municipality, a building, structure, or other premises, is by reason of its ruinous, dilapidated, unsafe, or unprotected condition, dangerous to the public safety, the council may, subject as herein provided, make an order respecting the building, structure, or premises.

Contents of order.
303 (2) Any such order may require the owner within a period of time, which shall not be less than thirty days from the date on which the owner receives a copy of the order,

(a) to remedy the condition in the manner and to the extent directed in the order; or

(b) to demolish or remove the building, structure, or premises and level the site thereof.

Enforcement of order.
303 (3) If the owner does not comply with an order made under subsection (1) within the period specified in the order, the enforcement officer shall carry out the order or cause if to be carried out.

Note: Right of Appeal - See sec. 295(5).

Sale of premises and disposal of proceeds.
303 (4) The removal may be done by way of selling the building, structure or premises, in which case the net proceeds realized from the sale shall be paid to the owner, mortgagee, or other person entitled thereto, unless there is any tax or other charge owing in respect of the building, structure, or premises or the land on which it is situated; in which case the amount of the tax or other charge shall be set off against the net proceeds of the sale of the building, structure, or premises, and any amount in excess thereof shall be paid to the owner, mortgagee, or other person entitled thereto.

Proceeds less than costs.
303 (5) Where the proceeds from the sale of the building, structure, or premises, after deduction of taxes or other charges owing thereon are insufficient to meet the costs of the demolition or clearance of the site or if no proceeds are realized from the demolition and removal of the building, structure, or premises, the council may charge against the owner of the land on which the building, structure, or premises was situated, the costs of the work done, and recover those costs as a debt due to the municipality, or charge the costs against the land concerned as taxes due to the municipality, or charge the costs against the land concerned as taxes due and owing in respect of that land, and recover the costs as such.

Copy of order sent to persons interested.
303 (6) The clerk of the municipality shall send forthwith, by registered mail a copy, certified by him, of any order made under this section, to the owner of the land upon which there is situated a building, structure, or premises affected by the order, and to any other person who appears by the certificate of title, or other registrations affecting the title to the land, to have a mortgage thereon or other interest therein.

Removal of occupants.
303 (7) In order to effect a demolition or removal of any building pursuant to this section, the council may cause the occupants of the building to be removed by force.

Meaning of "structure".
303 (8) In this section, "structure" includes an underground or surface tank or container containing erosive, flammable or noxious liquids or materials.

En. S.M. 1971, c.27, s.26.
S.M. 1970, c.100, s.303; Am. S.M. 1971, c.27, s.26.
See R.S.M. 1954, c.173, s.902.

Emergency action respecting unoccupied buildings.
304 (1) Notwithstanding section 303, where, in the opinion of the council, an unoccupied building is so ruinous, unsafe, or dilapidated as to be dangerous, or likely to cause injury to a person or damage to peroperty, the municipality may promptly take such reasonable emergency action as is required to eliminate or minimize the hazard.

Notice of hearing by council.
304 (2) When such emergency action has been taken, the clerk of the municipality shall forthwith send, by registered mail, to the owner of the building, a notice

(a) advising him of the action of the municipality, and of its intention to charge the cost thereof against the land on which the building is or was situated; and

(b) inviting him to appear before a committee of the council appointed for the purpose, on a date stated in the notice, for the purpose of

(i) disputing the justification of the municipality having acted under this section; or

(ii) contesting the intention of the municipality to charge the costs of the emergency action against the land;

or for both the purposes mentioned in sub-clauses (i) and (ii).

Date of hearing.
304 (3) The date of the committee meeting stated in the notice sent under subsection (2) shall not be earlier than fourteen days after the date on which, in the ordinary course of mail, the owner would receive the notice; and the notice shall be mailed in sufficient time to permit of its receipt by the owner, in the ordinary course of mail, not later than fourteen days before the date of the meeting stated in the notice.

Application of sec. 303(4), (5).
304 (4) Where an owner fails to appear before the council, subsections (4) and (5) of section 303 apply.
S.M. 1970, c.100, s.304.

Accumulation of rubbish prohibited.
305 No person shall permit premises within five hundred feet of a highway, and that are owned or occupied by him, to be unsightly by permitting to remain, on any part of the premises, any ashes, junk, rubbish, refuse, residue of production or construction, or abandoned machinery, other than automobiles, unless the premises are adequately concealed from the view of any person standing on the highway, by a fence, hedge, or other structure.
S.M. 1970, c.100, s.305.

Copy of order to owner, etc.
306 (1) Where the council of a municipality is satisfied that a condition mentioned in section 305 exists in the municipality, it may order the owner or occupier of the premises to correct the condition and cause a copy of the order to be served on him as provided in subsection (2).

Contents of order.
306 (2) An order made under subsection (1) shall

(a) be in writing;

(b) be signed by an officer designated by the council;

(c) state that the condition mentioned in section 305 exists;

(d) state what must be done to correct the condition;

(e) state the date before which the condition must be corrected; and

(f) be served either by personal delivery thereof to the person to be so notified or by sending it to him, by registered mail, addressed to him at his latest address as shown by the records of the municipality.

Compliance with notice and offence.
306 (3) On receipt of a copy of an order served on him under subsection (1), the owner or occupier shall, subject to appeal as herein provided forthwith comply with the requirements set out in the notice pursuant to clauses (d) and (e) of subsection (2); and if he refuses to do so or omits, fails, or neglects to do so within thirty days after receipt by him of the notice, or within thirty days after the disposal of his appeal, if any, he is guilty of an offence and is liable on summary conviction, to a fine or not more than one hundred dollars, or to imprisonment for a term not exceeding one month, or to both such a fine and such an imprisonment.

Correction of condition and recovery of costs.
306 (4) Where a person to whom a notice is sent under subsection (1) refuses to comply with the requirement set out in the notice pursuant to clauses (d) and (e) of subsection (2), or omits, fails, or neglects to do so within thirty days after receipt by him of the notice, or within thirty days after the disposal of his appeal, if any, the municipality may, by its employees or agents, enter on the land on which the unsightly condition exists and take such measures as are necessary to remedy or correct the condition, and may charge the cost thereof against the land and collect it in the manner in which taxes are collected, or may sue for, and recover judgment for, the amount of the costs against the owner or occupant in any court of competent jurisdiction.
S.M. 1970, c.100, s.306.

SASKATCHEWAN

SECTION 30
of the
SASKATCHEWAN HOUSING CORPORATION ACT

Power of municipality to pass bylaws

30.-(1) A municipality may by bylaw do any act or thing necessary for the municipality to carry out this Act and, without limiting the generality of the foregoing the municipality may, by bylaw:

(a) prescribe standards for the maintenance and occupancy of property and for prohibiting the use of property that does not meet the standards;

(b) require property that does not meet the standards prescribed in the bylaw to be repaired and maintained so as to meet the standards, or require property that does not meet those standards to be cleared of all buildings or structures and left in a graded and levelled condition.

(2) Two copies of any bylaw passed under subsection (1), and any amendment or revision thereof, certified correct by the clerk or secretary treasurer of the municipality, shall be transmitted to the minister for his approval, and the bylaw, amendment or revision, as the case may be, shall have no effect until approved by the minister.

(3) A bylaw passed under subsection (1) is not enforceable with respect to property until notice has been sent by registered mail, postage prepaid, to, or served personally on, the owner and all persons shown by the records of the land titles office to have an interest in the property and on the occupant of the property, if any, stating:

(a) that the property does not meet the standards prescribed in the bylaw and that repairs are required to be made to the property, giving reasonable particulars of the repairs required to be made, or that the property must be cleared and left in a graded and levelled condition;

(b) that the repairs are to be made or the clearing is to be done prior to a date stated therefor in the notice, which date shall not be less than six months after the date of the notice; and

(c) that, if the repair or clearance is not done prior to the date stated therefor in the notice, the municipality may carry out the repair or clearance required and the cost of doing so may be levied against the property as a debt due to the municipality or charged against the land concerned as taxes due and owing in respect of that land, and recover the cost as such.

(4) A person to whom a notice under subsection (3) is to be sent or upon whom it is to be served may, within ten days of the receipt of the notice, appeal in writing to the Provincial Planning Appeals Board and the board shall hear and determine the appeal at such time and place as it may designate, and with respect to the appellant's property the Provincial Planning Appeals Board may confirm, reverse, vary or delay the effect of the bylaw.

(5) No appeal shall lie from a decision of the Provincial Planning Appeals Board under this Act and no action shall lie against any municipality, the council of the municipality or any member thereof, or any municipal official, agent or servant in respect of any matter or thing done by the municipality or the council or any such person under this Act.

(6) Subject to subsection (4), where a repair or clearance of property is not carried out in accordance with a notice requiring such repair or clearance sent or served under subsection (3), the municipality may carry out the repair or clearance and the cost of doing so may be levied against the property as a debt due to the municipality or charged against the land concerned as taxes due and owing in respect of that land, and recover the cost as such. 1973, c.93, s.30.

NOTE: In light of the limitations of the above (described in the text) and of the more recent enactment of Section 126 of the Urban Municipality Act, it is being proposed by the Saskatchewan Housing Corporation that the above section be repealed.

SECTION 126
of the
URBAN MUNICIPALITY ACT (1984)

MAINTENANCE OF PRIVATE LAND AND BUILDINGS

Maintenance bylaw

126(1) A council may, by law:

(a) establish minimum standards of:
  (i) fitness for human habitation for all buildings;
  (ii) relating to the state of repair and maintenance of the physical condition of the exterior of buildings or structures;

(b) prohibit the occupancy or use of buildings that do not conform to the minimum standards;

(c) require buildings that do not conform to the minimum standards to be repaired and maintained to conform with the minimum standards or the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

(d) post notices on or placard buildings that do not conform to the minimum standards;

(e) prohibit the removal of any notice or placard until the buildings are repaired or maintained to conform to the minimum standards.

(2) If, after inspection, the council or an authorized municipal employee is satisfied that in some respect a building does not conform to the minimum standards established in a bylaw passed pursuant to subsection (1), the council or employee shall serve on the owner of the building and of the land on which the building is situated and any person shown by the records of the Land Titles Office to have any interest in the land or buildings, a notice specifying the particulars of non conformity and may, at the same time, provide all occupants with a copy of the notice.

(3) Any person served with a notice provided for by subsection (2) has an opportunity within 30 days of receipt of the notice to appear before council and make representations.

(4) On the expiration of the period provided in subsection (3) the council or an authorized municipal employee may make and serve on the owner an order containing:

(a) the street address and the legal description of the buildings and the land on which the buildings are situated;

(b) the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse, and left in a graded and levelled condition;

(c) the time by which the terms and conditions of the order are to be complied with, which time is required to be not less that 90 days after the day on which the order is made;

(d) a statement that, if the required repair or clearance is not done within the time specified in the order, the urban municipality may carry out the repair or clearance at the expense of the owner; and

(e) the date and place at which an appeal from the order may be made.

(5) A notice or order mentioned in subsection (2) or (4) is deemed to be sufficiently served if it is posted in a conspicuous place on the building or land on which the building is situated.

(6) An owner on whom an order is served pursuant to this section may, within 90 days after the order is served, appeal to the local Development Appeals Board established pursuant to The Planning and Development Act, 1983 or, if no such board is established, directly to the Provincial Planning Appeals Boards, in accordance with the procedures set out in that Act for appeals to the board.

(7) The Development Appeals Board may confirm, reverse, vary or delay an order issued pursuant to this section, subject to a further appeal to the Provincial Planning Appeals Board pursuant to the provisions of The Planning and Development Act, 1983 whose decision is final.

(8) Appeals may be granted by the local Development Appeals Board or the Provincial Planning Appeals Board in cases in which the maintenance bylaw has been misinterpreted or misapplied or contravenes this Act, but no appeal is to be granted that:

(a) grants to the applicant a special privilege inconsistent with standards or requirements for neighbouring lands and buildings within the urban municipality or an area of it defined in the bylaw; or

(b) amounts to a relaxation of the provisions of the maintenance bylaw that would be contrary to its purposes and intent or would injuriously affect neighbouring lands and buildings.

(9) If an owner fails to comply with an order as confirmed or modified by an appeal, subsections 124(5) to (10) apply mutatis mutandis.

ALBERTA

SECTION 248
of the
MUNICIPAL GOVERNMENT ACT

Minimum standards for buildings

248 (1) A council may by bylaw establish and enforce minimum standards for existing property in the municipality.

(2) The bylaw may

(a) prescribe standards for the maintenance and occupancy of property and prohibit the use of property that does not conform to the prescribed standards, and

(b) require property that does not conform to the prescribed standards to be repaired and maintained to comply with the standards or the land thereof to be cleared of all buildings and structures and left in a graded and level condition.

(3) The bylaw may provide that the municipal planning commission or the development control officer of the municipality may be authorized to act on behalf of the municipality in the administration of the bylaw.

(4) The bylaw is not enforceable with respect to property until notice has been sent by registered mail to or served on the assessed owner and all persons shown by the records of the land titles office to have an interest in the property and on the occupant, if any,

(a) stating that the property does not comply with the standards prescribed in the bylaw and
(i) that repairs are required to be made to it, giving reasonable particulars of the repairs required to be made, or
(ii) that the land must be cleared and left in a graded and level condition,

(b) stating the time within which the repairs are to be made or the clearing is to be done, which shall not be less than 3 months, and

(c) stating that if the repair or clearance is not so done within the time specified, the municipality may carry out the repair or clearance and the cost of the work done may be levied against the property as a debt due to the municipality or charged against the land concerned as taxes due and owing in respect of that land and recover the costs as such.

(5) A person entitled to notice under subsection (4) may, within 14 days of the receipt of the notice, appeal

(a) to the development appeal board of the municipality, or

(b) if no development appeal board is established, to the council.

(6) The development appeal board or the council, as the case may be, shall hold a hearing of each appeal and in determining the appeal it may

(a) confirm, reverse or vary the decision appealed from, and

(b) grant an extension of not more than one year from the end of the time specified in the notice given under subsection (2) within which the repairs are to be made or the clearing is to be done,

but no extension shall be granted unless the development appeal board or the council is of the opinion that a refusal of the appeal would result in undue hardship and not more than 2 extensions may be granted in respect of any property.

(7) A council may by bylaw establish a fund to provide loans to individuals whose property does not meet the minimum standards prescribed under this section.

(8) A bylaw under subsection (7) shall prescribe

(a) the maximum amount of borrowings which may be outstanding at any one time,

(b) the maximum amount which may be loaned to any individual,

(c) the maximum term for which a loan may be made,

(d) the rate of interest to be chargeable on borrowings, and

(e) the qualifications necessary for obtaining a loan.

RSA 1970, c.246, s.239; 1974, c.42, s.13; 1977, c.89, s.164(f).

APPENDIX "B"

SELECTED OTHER
RELEVANT PROVINCIAL
LEGISLATION
AND
REGULATIONS

NOTE: No attempt is made, in this Appendix, to compile all of the provincial legislation or regulations relating to the existing housing stock. It has been necessary, in the interests of brevity, to be highly selective.

TABLE OF CONTENTS

APPENDIX "B"

	Page
Excerpts - Newfoundland Municipalities Act	1
Excerpt - P.E.I. Public Health Act - 1980	4
P.E.I. - Public Health Act - Rental Accommodation Regulations	5
P.E.I. - Booklet - "Landlords & Tenants: A Mutual Understanding"	13
Excerpt - P.E.I. Municipalities Act	17
Excerpt - N.B. Health Act	18
Explanatory Notes and Extracts - Quebec Bill 53, 1985 - BUILDING LAW	20
Excerpt - Provincial Offenses Act - Ontario	25
Excerpt - "Penalties of Enforcement of Bylaws", Ontario Municipal Act	30
Excerpts - Manitoba Public Health Act	31
Excerpts - City of Winnipeg Act	49
Excerpts - Saskatchewan Urban Municipalities Act	61
Excerpts - B.C. Residential Tenancy Act	69
Excerpts - B.C. Municipal Act	71

EXCERPTS FROM NEWFOUNDLAND
MUNICIPALITIES ACT
dealing with
BUILDING CONTROLS

DIVISION G - CONTROLS

Building Controls

Building

207. No person shall within a town

(a) erect or commence to erect a building;

(b) extend, repair, relocate or demolish an existing building;

(c) change the use for which an existing building is or was last held or occupied; or

(d) occupy a building that has been vacant for a period of six months or more or a newly constructed building,

except under and in accordance with a permit in writing from the council.

Building regulations

208.(1) The Council shall make regulations controlling the design, construction, alteration, reconstruction and occupancy of buildings, and any class thereof and the demolition, removal, relocation and maintenance thereof, and shall submit such regulations for the approval of the Minister.

(2) In making regulations under subsection (1) the council may adopt the whole or any portion of the National Building Code of Canada or any other code, with or without modification, and any supplements or amendments thereto.

(3) Where a council has adopted the National Building Code of Canada or other code, the code and supplements and amendments thereto then in force shall be kept at the office of the council and shall be available for inspection by members of the public.

Building Code

209.(1) A copy of the National Building Code of Canada or other code, and supplements and amendments thereto, signed by the Minister, shall be kept on record in the department.

(2) The copy of the National Building Code of Canada or other code referred to in subsection (1) as signed by the Minister is the Code adopted or varied by the council under section 208, notwithstanding that a revised Code has been made.

(3) Any alleged infringement of the regulations is to be governed by the copy of the National Building Code of Canada or other code signed under subsection (1).

(4) A certificate of the Minister that a document is a copy of the National Building Code of Canada or other code or a supplement or amendment thereto, or any extract thereof, is prima facie proof thereof.

Removal of building

210.(1) Where

(a) a building has been erected, or commenced to be erected,

(b) an existing building is repaired or an extension added thereto, or

(c) the use of an existing building is changed other than under and in accordance with the terms of a permit issued by the council and the building regulations adopted by council,

the council may order the owner or builder to stop construction, pull down, remove, fill in or otherwise destroy the building and restore the site to its original state, or make such disposition or alteration of the building as the order directs, within the time specified in the order.

(2) Where a building is in a dilapidated state, or is, in the opinion of the council, unfit for human habitation, or the other use for which it is then being used, or is a public nuisance, the council may order the owner or occupier to pull down, remove, fill in or otherwise destroy the building and return the site to its original state, or make such disposition or alteration of the building as the order directs, within the time specified in the order.

(3) An order made under this section shall be signed by the town clerk and shall be served upon the owner or builder of the building either personally or by certified mail, or by posting the notice on the building, where the owner or builder is not known.

Order not obeyed

211.(1) If an order made under section 210 is not complied with within the time set out in the order, and a period of fourteen days has passed from the time of service or posting of the notice, and an appeal has not been commenced, heard or otherwise disposed of under section 212, the council may itself carry out the order through its employees or agents and may recover the cost thereof as a civil debt from the person on whom the order was served.

(2) Every person on whom an order made under section 210 has been served who refuses or fails to comply with the order is guilty of an offence and liable on summary conviction to a fine of not less than twenty-five dollars for every day of refusal or failure to comply, and in default of payment to a period of imprisonment not exceeding three weeks.

Appeal

212.(1) Any person who feels aggrieved by an order made under section 210 may, within fourteen days of the service or posting of the order, appeal to the appropriate regional appeal board established under The Urban and Rural Planning Act and the board may make such order with resepct to the matter as appears just.

(2) Where an appeal has been commenced under subsection (1) the council shall not commence to carry out its order under section 210 until the appeal has been heard or otherwise disposed of.

(3) Notwithstanding subsection (2) a stop construction order remains in full force and effect and is subject to a penalty for a contravention under subsection (2) of section 211.

(4) Notwithstanding subsection (2) where a building poses an immediate threat to public health and safety the council may take such steps as it deems necessary to eliminate that threat and may collect the costs thereof from the owner.

EXCERPTS FROM PRINCE EDWARD ISLAND PUBLIC HEALTH ACT - 1980

Buildings

Buildings unfit for human habitation

14.(1) If a building or any portion thereof is, in the opinion of the Chief Health Officer, unfit for human habitation or if there exists therein any condition that, in his opinion, might endanger the public health he may, by order in writing,

a) direct that the building be vacated and closed and give notice thereof to the owner and the occupants;

b) direct the owner of the building, within such time as may be specified in the order, to alleviate the health hazard or, at the option of the owner, to demolish the building at the owner's expenses.

Order of the Supreme Court

(2) Where the owner of a building fails to comply with an order under subsection (1), the Minister may apply to a judge of the Supreme Court for an order directing the owner to take steps to alleviate the health hazard or to demolish the building, and the judge may make an order subject to such terms as he considers advisable.

Power of Entry and Seizure

Public health officer, powers of entry

15. For the purpose of enforcing this Act and the regulations any public health officer, upon presentation, if required, of a certificate of identification signed by the Chief Health Officer, may

a) at all reasonable times enter any building other than an occupied dwelling house and inspect the same without the consent of the owner or the occupant thereof;

b) enter any occupied dwelling house and inspect the same where the owner or occupant thereof does not object or refuse admission, and if admission is refused, upon the written authority of the Chief Health Officer, enter any occupied dwelling house and inspect the same without consent of the owner or occupant thereof.

CHAPTER P-29

PUBLIC HEALTH ACT

RENTAL ACCOMMODATION REGULATIONS

Made by the Lieutenant Governor in Council under the *Public Health Act* R.S.P.E.I. 1974, Cap. P-29

1. In these regulations — Definitions

(a) "apartment" means one or more habitable rooms, constituting a self-contained unit with a separate entrance, and occupied, or intended to be occupied, together for living and sleeping purposes by not more than one family, and containing a separate or properly ventilated kitchen with a sink and cooking facilities and also a bathroom unit;

(b) "apartment block" means a house or building, portions of which are rented or leased as apartments to two or more families living independently of each other but having common rights in the halls, stairways, yards, or other conveniences;

(c) "attic" means the space which is between the top floor ceiling and the roof and between a dwarf wall and a sloping roof;

(d) "basement" means that portion of any dwelling located partly underground but having not more than half of its clear floor-to-ceiling height below the average of the finished grade of the land outside the building in which such a basement is located, such grade being taken at the foundation walls;

(e) "bathroom unit" means a room

(i) containing one water closet, one hand basin and one bathtub or shower with both hot and cold running water, and subject to the Plumbing Code, and

(ii) constructed so that complete privacy and a dressing area are available to the user;

(f) "dwelling unit" means one or more habitable rooms, constituting a self-contained unit with a separate entrance, and occupied, or intended to be occupied, together for living and sleeping purposes by not more than one family, and containing a separate or properly ventilated kitchen with a sink and cooking facilities and also a bathroom unit;

(g) "heating of water for bathroom and kitchen facilities"

If the owner of the said dwelling or apartment does not provide heating facilities in the form of a furnace, he must supply tenant or tenants of his apartments or dwelling units with a suitable water heater which will supply hot running water for bathroom and kitchen facilities.

If the said dwelling has no facilities for heating water, a water storage tank shall be installed in each and all apartments and in such a manner that the tenant may install a stove or other such heating facility which may be used in conjunction with said water storage tank for the purpose of heating water;

(h) "housekeeping room" means a habitable room which is occupied or intended to be occupied and which is provided with a sink and with cooking facilities but relative to which a bathroom unit may be shared;

(i) "housekeeping unit" means one or more habitable rooms occupied or intended to be occupied together for living and sleeping purposes for not more than one family and having its own separate and properly ventilated kitchen or kitchenette with a sink and cooking facilities and a bathroom unit;

(j) "inspector" means the sanitary officer or other persons designated by the Minister to enforce the provisions of these regulations;

(k) "medical health officer" means a physician appointed by the Lieutenant Governor in Council under the provisions of the *Public Health Act;*

(l) "Minister" means the Minister of Health and Social Services;

(m) "owner" includes the person for the time being receiving the rent of or managing the land or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person or who would so receive the rent if such lands and premises were let;

(n) "person" includes any person, male or female, and any body corporate or politic, and heirs, executors, administrators, or other legal representatives of such person to whom the content can apply according to law;

(o) "room" means any room commonly used for living purposes including a bedroom and kitchen, but shall not include any space in a dwelling used as a lobby, hallway, closet, bathroom or any room having a floor space of less than fifty square feet;

(p) "sleeping unit" means one or more habitable rooms occupied or intended to be occupied for sleeping or living purposes but not containing either a sink or cooking facilities and relative to which a bathroom unit may be shared;

(q) "sanitary facilities" means any water closet, urinal, bathtub, shower or hand basin, including the room where such facility is installed, provided that property fronts on water main or sewage system; where said property does not front on water main or sewage system the sanitary facilities will be examined at the discretion of the Minister of Health and Social Services or the inspector. The facilities will be constructed so as to give privacy and be a specified distance from the dwelling and comply with the *Public Health Act* as to chemicals used;

(r) "tenant" means the occupant of a dwelling unit or part thereof;

(s) "N.H.A." means National Housing Act Regulations. (EC142/70, 301/80)

Space requirements, sleeping area

2. (1) No person shall rent or allow to be rented or occupied as a sleeping unit or for purposes for sleeping any accommodation unless there is available not less than fifty square feet of floor area for each and every occupant, and also not less than four hundred cubic feet of space for each and every occupant.

Living area

(2) Every room shall have a minimum ceiling height of seven feet six inches and in compliance with N.H.A. Regulations. Living room shall have a minimum floor area of eighty square feet and no other room other than kitchenettes, water closet compartments, or bathrooms shall be in any part less than seven feet wide or in compliance with N.H.A. Regulations.

Sanitary facilities

(3) Each apartment, or dwelling unit or housekeeping unit, shall contain a bathroom unit. At least one bathroom unit shall be provided for every three sleeping units or housekeeping rooms or less, provided always that in exceptional circumstances and at the discretion of the Medical Health Officer, one bathroom unit may serve more than three sleeping units or housekeeping rooms, so long as the total number of occupants of the sleeping units or housekeeping rooms served does not exceed ten.

When, in the opinion of the Medical Health Officer, the type of accommodation warrants segregation, he may require the installation of such additional numbers of additional toilets for the use of one sex only as he deems requisite.

Any room in which is installed any of the sanitary facilities detailed above hereof shall be adequately ventilated and shall be provided with artificial lighting equipped with a globe of at least sixty watts.

Any building where water main facilities or sewage systems are not available (i.e., outhouse) must comply with use of proper sanitary chemicals according to the regulations and directives of the Minister. (EC142/70)

Basement rooms for living quarters

3. No room in a basement shall be used as a habitable room unless

(a) the height of such room is not less than seven feet six inches from the finished floor to the finished ceiling;

(b) the elevation of the finished floor is not greater than fifty percent of the height of the foundation below the finished grade outside the building taken at the foundation walls, and shall in no case be greater than four feet below the average of such finished grade or in compliance with N.H.A. Regulations;

(c) the floors and walls are water-tight;

(d) the basement is dry and has a floor drain which complies with the requirements of the Plumbing Code of the Province of Prince Edward Island;

(e) such room conforms with space, light and ventilation requirements herein provided;

(f) each apartment shall have two exits to exterior from within said apartment as approved by the Fire Marshal or Fire Inspector. (EC142/70)

Cellar rooms for living quarters

4. No room in a cellar shall be used as a habitable room provided, however, that where any building used as a dwelling is located on sloping ground and the lowest floor of which is on ground level on at least one side of the building, the portion of the building which is in part below ground level may, with the approval in writing of the Minister and to the extent so approved by him and subject to such conditions as he may prescribe, be used as a habitable room or rooms, notwithstanding that more than half of its clear floor-to-ceiling height is below the average of the finished grade outside such building taken at the foundation walls or in compliance with N.H.A. Housing Regulations. (EC142/70)

Light

5. (1) Every habitable room shall be provided with one or more windows opening directly to the external air and having an area of not less than one-tenth of the total floor area of the room, provided that such window shall have a minimum area of not less than eight square feet and shall be constructed so as to open to the extent of at least thirty percent of the glass area or in compliance with N.H.A. Regulations.

Ventilation

(2) Every bathroom or room containing a toilet or urinal shall be provided with ventilation

(a) by means of one or more windows opening directly to the outside air;

(b) by means of one or more windows opening directly into a vent shaft which extends to and through the roof or into a courtyard or airwell;

(c) by means of a separate duct of non-combustible material which is non-corrosive in composition not less than twelve square inches across section which extends independently of any duct used for other purposes to and through the roof;

(d) by a ventilating skylight; or

(e) by such approved means of mechanical ventilation as approved by the Medical Health Officer or the Minister.

Area of glass

(3) The aggregate area of glass in windows required for these rooms shall not be less than ten percent of the floor area of such rooms, provided that the said glass area shall be not less than three feet square.

Opening of windows

(4) All windows required for the purposes of ventilation shall be capable of being opened to an extent of at least thirty percent of the glass area required for such window.

Skylights

(5) Where skylights are used instead of windows, they shall be placed directly over the room and the provisions of subsection (3) shall apply thereto.

Lighting

(6) Every building or dwelling in which three or more families reside shall have a minimum of one foot candle of daylight or artificial illumination at all times in all public halls and passageways used in common by the occupants of such building or dwelling or in compliance with N.H.A. Regulations.

Ventilation

(7) For those buildings that do not front on a water main or sewage system the toilet facilities shall have proper ventilation so as not to create a health hazard. (EC142/70)

Housekeeping requirements

6. An owner may rent or allow to be rented or occupied any accommodation

(a) as a housekeeping unit provided the main habitable room has a floor area measuring not less than one hundred and twenty square feet, having its own separate and properly ventilated kitchen or kitchenette provided with a sink with cooking facilities and which kitchen or kitchenette must also be sufficiently large or provide a work area for the preparation of food or subject to N.H.A. Regulations;

(b) as a housekeeping room, the room occupied by two persons only has a floor area measuring not less than one hundred and forty-four square feet and is provided with a sink and cooking facilities or the room is occupied by only one person, has a floor area measuring not less than one hundred and twenty square feet, and is provided with a sink and with cooking facilities and the occupation thereof has received the approval of the Medical Health Officer or subject to N.H.A. Regulations. (EC142/70)

Garbage disposal

7. The owner shall provide or cause to be provided properly maintained the following:

one regulation garbage can in good repair and properly located for each dwelling unit provided that where an incinerator is properly installed, used, and maintained, the number of garbage cans required may be reduced to the approval of the Medical Health Officer provided that in the case of the dwelling unit, the tenant shall supply and maintain such garbage can. (EC142/70)

Heating

8. (1) All buildings and dwelling units shall be weather-proof and capable of being adequately heated with a reasonable consumption of fuel and the heating equipment in any building or dwelling unit shall be in working order and in good repair.

Dampness

(2) All buildings and dwelling units shall be free from dampness to the satisfaction of the Minister or the Medical Health Officer.

Minimum temperature

(3) All buildings and dwelling units in which the heat is supplied by the owner shall have a temperature of not less than sixty-five degrees Fahrenheit at all times in each apartment or dwelling unit by means of a heating system approved by the Fire Marshal or Fire Inspector. (EC142/70)

Maintenance of premises

9. The owner of any dwelling shall, when necessary

(a) carry out repairs or alterations to such dwelling in order to make it sound, weatherproof, damp-proof, vermin-proof, safe and sanitary in every respect;

(b) where the dwelling contains three or more dwelling units, provide sufficient janitor service and cleaning equipment to maintain all communal parts of the dwelling including bathrooms, and fixtures, halls, closets, stairways, storage rooms, basements, attics and grounds in a clean and sanitary condition, and that it shall be the responsibility of the owner to see that such a dwelling and all parts thereof is kept in a clean and satisfactory condition at all times, provided that the tenants shall likewise be responsible for cleanlinesss within the dwelling unit for the time being in his possession;

(c) take necessary precautions and undertake necessary treatment to prevent or eliminate infestations by cockroaches, bedbugs, fleas, silverfish, weevils, flies, rats, mice and any or all other pests. (EC142/70)

Food storage

10. There shall be a suitable and convenient receptacle of not less than forty-eight cubic feet capacity for the storage of food in any dwelling unit used for housekeeping purposes or in compliance with Residential Standards Supplement No. 5 to the National Building Code of Canada. (EC142/70)

Number of persons

11. For the purposes of ascertaining the number of persons occupying any room

(a) children under one year of age shall not be counted;

(b) children from one to ten years of age shall be deemed to be one-half a person;

(c) a person over ten years of age shall be deemed to be one person. (EC142/70)

Pets

12. No pet, dog, bird or animal, shall be kept in any dwelling so as to become a nuisance to other occupants of the dwelling, provided that any alleged violation of this section shall only be investigated by the Medical Health Officer following a written complaint signed by two or more occupants of the dwelling. (EC142/70)

Register

13. In the case of dwellings containing three or more dwelling units the owner shall keep a register containing the names of all persons occupying each dwelling unit within his dwelling. (EC142/70)

Responsibility of the tenant

14. The tenant shall

(a) maintain his dwelling unit in a clean and sanitary condition;

(b) if so requested, furnish the name of every person occupying the dwelling unit to the owner of the dwelling;

(c) immediately notify the owner in writing of any defective plumbing or other unsanitary condition within his dwelling unit;

(d) immediately notify the owner and sanitary inspector of the Department of Health and Social Services of any infestation within or apparently within his dwelling unit; notification to both parties or all parties shall be in writing;

(e) immediately notify the owner and the Medical Health Officer of the occurrence of any reportable communicable disease within the dwelling unit;

(f) not increase the number of persons occupying the dwelling unit so as to contravene the provisions of these regulations relating to the number of occupants nor shall he do any other act or thing contrary to the provisions of this or any other Act or regulation of this province;

(g) cooperate with the owner and with other tenants to maintain bathrooms, toilet rooms, closets, halls, stairways, and other parts of the dwelling and the ground area pertinent thereto in a clean and sanitary, safe and tidy condition;

(h) not use any fixture, service or appurtenance connected with any dwelling in any other than a normal manner or for other than a normal purpose. (EC142/70, 301/80)

Inspection

15. (1) The Medical Health Officer or an authorized inspector shall have the right at all reasonable times to enter and inspect any rental dwelling or any part thereof.

Idem

(2) Inspections may be carried out where the Department of Health and Social Services deems necessary, or upon a written complaint from the owner, a tenant or the Tenants' Union, said complaint will define the reason for said inspection.

Obstruction

(3) No person shall obstruct the Medical Health Officer or the inspector in his duties or refuse or fail to comply with any provision of these regulations or with any notice issued in accordance with these regulations. (EC142/70, 301/80)

Notice of violation

16. (1) Whenever the Minister determines that there are reasonable grounds to believe that there has been a violation of any of the provisions of these regulations, he shall give written notice of such alleged violation to the owner or occupants, as the case may require, of the dwelling or premises containing such violation as hereinafter provided.

Contents of notice

(2) Such notice shall

(a) contain a statement of the point or points of non-compliance with these regulations; and

(b) fix a definite period of time, not to exceed thirty days in which such owner or occupants, as the case may require, must complete whatever remedial action is necessary to eliminate the point or points of non-compliance with these regulations.

Closure of premises

(3) If the owner or occupant refuses or neglects to comply with the order after thirty days the premises will be closed by order of the Minister or Medical Health Officer, and will not be reopened until all regulations herein are complied with. (EC142/70)

Penalties

17. (1) Any person or tenant who infringes any of the provisions of these regulations or fails to comply therewith or with any notice lawfully given thereunder shall, where no other penalty is provided, be liable under summary conviction to a penalty of not less than twenty-five dollars and not more than five hundred dollars.

Continuing default

(2) The imposition of a penalty for failure to comply with a notice shall not relieve the person in default from carrying out the work therein mentioned, but he shall be liable on summary conviction to a further penalty of not less than one dollar and not more than ten dollars for each day after the first penalty is imposed until he has complied with the notice. (EC142/70)

Application

18. (1) These regulations shall not apply to establishments covered by the regulations made under the *Innkeepers Act*.

Idem

(2) These regulations shall apply to all new dwellings after the llth day of February, 1970. Re-rentals will be considered as new dwellings and will not be re-rented until they comply with these regulations. Any upward revision of the original renting rate shall be considered as a re-rental.

Relaxation of requirements

(3) Where it not practical or not possible for a person to meet all or certain of the standards contained in these regulations, the Minister may relax such requirements provided that no health hazard shall result therefrom. (EC142/70,574/71)

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QUEEN'S PRINTER FOR PRINCE EDWARD ISLAND
CHARLOTTETOWN, 1979

Text of Booklet Published by
P.E.I. Rentalsmen's Office
entitled:
"LANDLORDS AND TENANTS: A MUTUAL UNDERSTANDING"

RENTAL ACCOMMODATION REGULATIONS

The regulations try to ensure that dwelling units and their surroundings are conducive to the social, physical and mental well being of the tenants and occupants.

1. **What are the basic requirements under these Regulations?**

a) Type of accommodation subject to these regulations:

Apartment
Housekeeping Unit
Housekeeping Room
Sleeping Room

b) Space requirements:

This varies with the type of dwelling unit and with the number of occupants; however, for sleeping accommodations. no room shall have less than 50 square feet of floor space and no less than 400 cubic feet of air space for each occupant. Furthermore, every room shall have a minimum ceiling height of 7'6" and living room shall have a minimum floor area of 80 square feet and no other room, other than kitchenettes, water closet compartments or bathrooms, shall, at any part, be less than 7' in width.

c) Sanitary facilities:

Apartments and housekeeping units require full bathroom facilities. Housekeeping rooms and sleeping rooms may have shared bathroom facilities, normally on a criteria of 3 rooms to 1 bathroom. Bathroom units must contain a water closet, a bathtub or shower, and a washbasin with hot and cold running water.

d) Light and ventilation:

Each habitable room must be provided with a window in compliance with National Housing Act Regulations.

1) Every bathroom or water closet room must be ventilated by an acceptable method of either natural (window) or mechanical (exhaust fan).

2) Every dwelling unit in which three of more families reside shall have a minimum of one foot candle of daylight or artificial illumination at all times, in all public halls and passageways.

e) Garbage disposal:

The owner shall provide one regulation garbage can in good repair and properly located for each dwelling unit.

f) Heating and dampness:

All dwelling units shall be weatherproof and capable of being adequately heated, and the heating equipment shall be maintained in good working order and repair.

All dwelling units where the heat is supplied by the owner, shall have a temperature of not less than 65°F at all times.

g) Basement rooms for living quarters:

1) No room in a basement shall be used as habitable room unless:

- height of room must be 7'6" from finished floor to finished ceiling;
- floors and walls are watertight;
- basement is dry with a floor drain;
- each apartment shall have two exits to exterior from within said apartment as approved by the Fire Marshall or Fire Inspector.

2) The elevation of the finished floor shall not be greater than four feet below the average of the finished grade or 50% of the height of the foundation below the finished grade.

h) Miscellaneous:

1) Water supply - a potable supply of water must be provided in all dwelling units.

2) Heating of water - if the owner of a dwelling unit does not provide heating facilities in the form of a furnace, he must supply tenants with a suitable water heater which will supply hot running water to each dwelling unit.

3) Food storage - provide a suitable and convenient receptacle of not less than 48 cubic feet capacity, in any dwelling unit used for housekeeping purposes.

2. **What are the responsibilities of the landlord or owner?**

The owner of any dwelling unit shall, when necessary:

a) Carry out repairs or alterations to a dwelling unit in order to make it safe and sanitary in every respect.

b) Where the building contains three or more dwelling units, provide sufficient janitor service and cleaning equipment to maintain all communal parts of the building including bathrooms, fixtures, halls, closets, stairways, storage rooms, basements, attics and grounds in a clean and sanitary condition and that it shall be the responsibility of the owner to see that such a building and all parts thereof are kept in a clean and satisfactory condition at all times, provided that the tenants shall likewise be responsible for cleanliness within the dwelling unit.

c) The owner shall take necessary precautions and undertake necessary treatment to prevent and/or eliminate infestations of all pests.

3. **What are the responsibilities of the tenants?**

a) Maintain his dwelling unit in a clean and sanitary condition.

b) If requested, furnish the name of every person occupying the dwelling unit to the owner.

c) Notify the owner in writing of any defective plumbing or other unsanitary condition within his dwelling unit.

d) Notify the owner or Community Hygiene Health Officer of the Department of Health of any infestation within, or apparently within, his dwelling unit.

e) Notify the owner and the Chief Health Officer of the occurrence of any reportable communicable disease within the dwelling unit.

f) Not increase the number of persons occupying the dwelling unit so as to contravene the provision of these Regulations.

g) Cooperate with the owner and with other tenants to maintain all parts of the building and the group area, in a clean and sanitary, safe and tidy condition.

h) Not use any fixture, service or pertinence connected with any dwelling in any other than a normal manner or for other than a normal purpose.

4. **When may an inspection be carried out?**

   a) Inspections may be carried out where the Health Department deems necessary, or upon a written complaint from the owner or a tenant.

   b) No person shall obstruct an Inspecting Officer in his duties or refuse to comply with any notice issued in accordance with these Regulations.

EXCERPT FROM P.E.I.

MUNICIPALITIES ACT -1983

62. Without prejudice to section 55, a council may make bylaws concerning the services it is authorized to provide under this Act and where so authorized ...

Specific powers

1) With respect to unsightly properties and in particular

unsightly property

   i) setting out the responsibility of property owners for maintenance of their property and specifying minimum standards for such maintenance;

   ii) prohibiting property owners from allowing or causing trash, junk, weeds, derelict vehicles and machines and their parts and other waste materials to accumulate;

   iii) requiring action to clean up property and setting out the responsibilities of property owners;

   iv) requiring the repair or removal of dilapidated structures and setting out the responsibilities of property owners;

   v) concerning temporary storage of materials.

EXTRACT FROM

NEW BRUNSWICK HEALTH ACT

22(1) For the purposes of this section, "building" includes any house, tenement, room, or cellar used as a dwelling by one or more persons.

22(2) Where a building is, in the opinion of a medical health officer, unfit for human habitation by reason of lack of repair, inadequate plumbing, want of cleanliness, or the existence therein of any condition that might endanger the health of the occupants of the building or the public, the medical health officer may order the building closed to human habitation.

22(3) Where a medical health officer orders a building closed to human habitation he shall take reasonable steps to notify the owner and cause to have affixed to the building a notice declaring that the building is closed to human habitation and

(a) all leases relating to the building shall thereupon become void;

(b) all persons inhabiting the building shall vacate it within such time as may be specified in the notice,

(c) no person shall

(i) inhabit a building that is closed to human habitation, or

(ii) being the owner of a building closed to human habitation, permit any person to inhabit it without the written consent of the medical health officer, and

(d) the building shall remain closed to human habitation until the order closing it is rescinded and no removal, defacement, or obliteration of the notice shall in any way affect the validity of the order or any procedure under this section.

22(4) A judge of the Provincial Court, upon a complaint being made to him by a medical health officer that a person

(a) being an inhabitant of a building that has been closed to human habitation, has failed to vacate the building as required by paragraph (3)(b), or

(b) is inhabiting a building that is closed to human habitation contrary to paragraph (3)(c),

shall hear and determine the complaint in accordance with subsections 26(2), (3) and (4) and on being satisfied that

(c) the medical health officer had reasonable grounds to order the building closed to human habitation, and

(d) the facts alleged in the complaint are true,

may by order in writing direct the removal from the building of the person with respect to whom the complaint was made.

22(5) An order under subsection (4) may be directed to all or any peace officers and shall name or otherwise describe the person with respect to whom the order was made.

22(6) A person, being a tenant in a building that has been ordered closed to human habitation, who is required to vacate the building

(a) shall not be liable to the owner for the payment of rent for the period during which he was required to vacate the building, and

(b) may, where he is given permission to re-enter and inhabit the building by the medical health officer, elect either

(i) to re-enter without loss of rights under the terms of any lease agreement he had with respect to the building, or

(ii) to treat the lease as void without further duty or obligation on his part to be performed.

22(7) Where a building is ordered closed to human habitation an owner, not being a person with respect to whom a complaint was made under subsection (4), may apply in a summary manner to a judge of The Court of Queen's Bench of New Brunswick who may confirm, vary or rescind the order as he sees fit and his decision is final. R.S., c.102, s.28; 1966, c.61, s.14; 1970, c.24, s.4; 1979, c.41, s.60.

EXPLANATORY NOTES
AND EXTRACTS FROM
QUÉBEC BILL 53 - 1985
BUILDING LAW

EXPLANATORY NOTES

The purpose of this Bill is to ensure the proper quality of building work and the safety of persons who have access to buildings. It is also intended to provide better protection to consumers who acquire buildings or cause building work to be carried out.

The Bill brings together and standardizes the many laws that now provide for the drawing up of building and safety standards. It reduces government control over building and sets up procedures intended to enable persons working in the construction industry to accept greater responsibility.

The Bill preserves a qualification system for building contractors.

It also provides for setting up guaranty plans to compensate consumers where a contractor does not fulfil his contractual obligations.

As a matter of administration, the Bill gathers up the duties performed by various agencies or departments and entrusts them to the Commission du bâtiment. It provides for greater participation by contractors and their associations and trade and professional corporations, and by the municipalities in applying the law.

It amends the Consumer Protection Act and the Real Estate Brokerage Act with a view to regulating practices in real estate transactions.

ACTS AMENDED BY THIS BILL:

(1) the Act to promote housing construction (R.S.Q., chapter C-64.01);

(2) the Real Estate Brokerage Act (R.S.Q., chapter C-73);

(3) the Master Electricians Act (R.S.Q., chapter M-3);

(4) the Master Pipe-Mechanics Act (R.S.Q., chapter M-4);

(5) the Act respecting the Ministère de l'Énergie et des Ressources (R.S.Q., chapter M-15.1);

(6) the Act respecting the Ministère de l'Habitation et de la Protection du consommateur (R.S.Q., chapter M-15.3);

(7) the Summary Convictions Act (R.S.Q., chapter P-15);

(8) the Fire Prevention Act (R.S.Q., chapter P-23);

(9) the Act respecting probation and houses of detention (R.S.Q., chaptr P-26)

(10) the Consumer Protection Act (R.S.Q., chapter P-40.1);

(11) the Act respecting the Régie de l'électricité et du gaz (R.S.Q., chapter R-6);

(12) the Act respecting the Régie du logement (R.S.Q., chapter R-8.1);

(13) the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20);

(14) the Public Buildings Safety Act (R.S.Q., chapter S-3);

(15) the Act respecting safety in sports (R.S.Q., chapter S-3.1).

ACTS REPEALED BY THIS BILL:

(1) the Act respecting pressure vessels (R.S.Q., chapter A-20.01);

(2) the Gas Distribution Act (R.S.Q., chapter D-10);

(3) the Act respecting the conservation of energy in buildings (R.S.Q., chapter E-1.1);

(4) the Act respecting piping installations (R.S.Q., chapter I-12.1);

(5) the Act respecting electrical installations (R.S.Q., chapter I-13.01);

(6) the Stationary Enginemen Act (R.S.Q., chapter M-6);

(7) the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1);

(8) the Act respecting municipal regulation of public buildings (R.S.Q., chapter R-18);

CHAPTER III - PUBLIC SAFETY

DIVISION I

APPLICATION

25. This chapter does not apply to the following buildings:

(1) a single-family dwelling;

(2) an entirely residential building having fewer than three floors or fewer than nine dwellings;

(3) a building of a class excluded by government regulation by reason of its use or its area.

This Chapter applies to an electrical installation, a plumbing installation or an installation intended to use gas located in a building excluded by the first paragraph.

26. For the purposes of this Chapter, the following are considered owners:

(1) the manager, for his own account or on behalf of another person, of a building or of facilities intended for use by the public;

(2) the occupant of a non-residential building in respect of:

(a) an installation or a facility owned by him;

(b) the obligations prescribed by the Safety Code regarding the use of such building.

DIVISION II

SAFETY CODE

27. The Government shall adopt a Safety Code for the purpose of ensuring the safety of any person having access to a building or a facility intended for use by the public or using an installation independent of a building.

28. The owner of a building, of facilities intended for use by the public or of an installation independent of a building shall comply with the Safety Code.

29. The owner of a building shall, upon request by the Commission, provide the Commission with a certificate of the strength of the building or a certificate of the safety of an installation or of facilities in the building made by a person recognized by the Commission.

30. The owner of a facility intended for use by the public or of an installation independent of a building shall, upon request by the Commission, provide the Commission with a certificate of the safety of such equipment or such installation made by a person recognized by the Commission.

31. The owner of a building, of a facility intended for use by the public or of an installation independent of a building shall, where the Commission by regulation so prescribes:

(1) draw up a control program designed to ensure that his building, facility or installation is in accordance with the Safety Code;

(2) have a person recognized by the Commission attest that it is in accordance with the Code;

(3) inform the Commission of any accident or fire occurring there.

32. The owner of a building may not change its use or intended purpose without bringing it into accordance with the Building Code.

This section does not apply where the building becomes a building excluded under the first paragraph of section 25 by reason of a change in its use or intended purpose.

DIVISION III

SPECIAL

33. A pressure vessel requires approval by the Commission following the procedures and subject to the conditions prescribed by Government regulation before being marketed.

The putting into service of such vessel similarly requires approval by the Commission where it has not been operated for more than one year and where it is used for purposes other than those for which it was originally intended.

34. A gas distribution undertaking shall refuse to supply a gas installation that is defective or that it knows involves a risk of accident.

35. A gas distribution undertaking shall ensure that the installations or vehicles used for storage or distribution of gas are in accordance with the safety standards prescribed by Government regulation.

36. An electricity distribution undertaking shall ensure that the electricity generating or transmission installations are in accordance with the safety standards prescribed by Government regulation.

This section does not apply to a municipality, Hydro-Québec, a cooperative covered by the Rural Electrification Act (1945, chapter 48) or to the owner of a water level control work.

132. The Commission may enter into a written agreement with a local or regional municipal authority to delegate to it, within its territory and to the extent specified, its powers and dutes pursuant to sections 12 to 21 and 28 to 32, with a view to ensuring the quality of construction work and public safety.

The agreement may make provision for financing the expenses incurred by the authority in the application of this Act and allow the authority to collect and apply for this purpose sums covered by paragraphs 4 and 5 of section 142.

. . .

165. The Government shall by regulation adopt a Safety Code.

The Code shall contain safety standards for buildings, for facilities intended for use by the public and for installations independent of a building, and for their use, and also standards of hygiene for buildings.

The code may contain standards regarding the following matters in particular:

(1) fire and accident prevention and protection;

(2) the maximum number of persons that may be admitted to a building or to a facility intended for use by the public;

(3) the supervision measures required and the qualifications of the persons who are to carry them out;

(4) materials and equipment to be used or prohibited in buildings, in facilities intended for use by the public or in installations independent of a building;

(5) the assembly, erection, inspection, certification, quantity, site and tests of materials, facilities and installations;

(6) the use and storage of substances involving safety hazards.

. . .

169. The Government shall publish a draft regulation made under sections 163 and 165 in the Gazette officielle du Québec, with a notice indicating that it may be adopted with or without amendments after the expiry of 60 days beginning from such publication.

EXCERPTS FROM

THE PROVINCIAL OFFENSES ACT - ONTARIO

PART III

COMMENCEMENT OF PROCEEDING BY INFORMATION

Commencement of proceeding by information

22. -(1) In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information.

Exception

(2) Where a summons or offence notice has been served under Part I, no proceeding shall be commenced under subsection (1) in respect of the same offence except with the consent of the Attorney General or his agent. 1979, c.4, s.22.

Summons before information laid

23. Where a provincial offences officer believes, on reasonable and probable grounds, that an offence has been committed by a person whom he finds at or near the place where the offence was committed, he may, before an information is laid, serve the person with a summons in the prescribed form. 1979, c.4, s.23.

Information

24. -(1) Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information.

(2) An information may be laid anywhere in Ontario. 1979, c.4, s.24.

Procedure on laying of information

25. -(1) A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider ex parte the allegations of the informant and the evidence of witnesses and,

(a) where he considers that a case for so doing is made out,

(i) confirm the summons served under section 23, if any,

(ii) issue a summons in the prescribed form, or

(iii) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant; or

(b) where the considers that a case for issuing process is not made out,

(i) so endorese the information, and

(ii) where a summons was served under section 23, cancel it and cause the defendant to be so notified.

Summons or warrants in blank

(2) A justice shall not sign a summons or warrant in blank. 1979, c.4, s.25.

Counts

26. -(1) Each offence charged in an information shall be set out in a separate count.

Allegation of offence

(2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Reference to statutory provision

(3) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence.

(4) The statement referred to in subsection (2) may be,

(a) in popular language without technical averments or allegations of matters that are not essential to be proved;

(b) in the words of the enactment that describes the offence; or

(c) in words that are sufficient to give to the defendant notice of the offence with which he is charged.

More than one count

(5) Any number of counts for any number of offences may be joined in the same information.

Particulars of count

(6) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to.

Sufficiency

(7) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that,

(a) it does not name the person affected by the offence or intended or attempted to be affected;

(b) it does not name the person who owns or has a special property or interest in property mentioned in the count;

(c) it charges an intent in relation to another person without naming or describing the other person;

(d) it does not set out any writing that is the subject of the charge;

(e) it does not set out the words used where words that are alleged to have been used are the subject of the charge;

(f) it does not specify the means by which the alleged offence was committed;

(g) it does not name or describe with precision any person, place or thing; or

(h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

Idem

(8) A count is not objectionable for the reason only that,

(a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or

(b) it is double or multifarious.

Need to negative exception, etc.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negatived, as the case may be, in an information. 1979, c.4, s.26.

Summons

27. -(1) A summons issued under section 23 or 25 shall,

(a) be directed to the defendant;

(b) set out briefly the offence in respect of which the defendant is charged; and

(c) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service outside Ontario

(3) Notwithstanding subsection (2), where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last known or usual place of abode.

Service on corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,

(a) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporations; or

(b) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation at an address held out by the corporation to be its address, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.

Substitutional service

(5) A justice, upon application and upon being satisfied that service cannot be made effectively on a corporation in accordance with subsection (4), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the corporation.

Proof of service

(6) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service. 1979, c.4, s.27.

Contents of warrant

28. -(1) A warrant issued under section 25 shall,

(a) name or describe the defendant;

(b) set out briefly the offence in respect of which the defendant is charged; and

(c) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time. 1979, c.4, s.28.

. . .

Search Warrants

142. -(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place,

(a) anything upon or in respect of which an offence has been or is suspected to have been committed; or

(b) anything that there is reasonable ground to believe will afford evidence as to the commission of an office,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

Expiration

(2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

When to be executed

(3) Every search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice by the warrant otherwise authorizes. 1979, c.4, s.142.

EXCERPTS FROM

PART XIX - "PENALTIES AND ENFORCEMENT OF BYLAWS"

MUNICIPAL ACT, ONTARIO

Enforcing performance of things required to be done under bylaws

325. Where a council has authority to direct or require by bylaw or otherwise that any matter or thing be done, the council may by the same or by another bylaw direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes, or the council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding ten years and may, without obtaining the assent of the electors, borrow money to cover such expense by the issue of debentures of the corporation payable in not more than ten years. R.S.O. 1980, c.302, s.325.

Power to restrain by order when conviction entered

326. Where any bylaw of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the bylaw, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. R.S.O. 1980, c.302, s.326.

EXCERPTS FROM

MANITOBA PUBLIC HEALTH ACT

Powers and Authority of Health Officials
Procedure on Orders
Regulations
Offences and Penalty

* * *

Division XII - Dwellings & Buildings

Powers of medical officers of health.

18 For the purposes of enforcing this Act and the regulations and any bylaw of the municipality relating to health, a medical officer of health may

(a) upon presentation of a certificate or other means of identification as prescribed in the regulations, at all reasonable times, enter any place or premises and inspect the same without the consent of the owner;

. . .

(e) order an insanitary condition on, in, or in connection with, any premises to be abated by the owner or occupant or both within such time as may be specified in the order;

(f) order any premises that are or constitute an insanitary condition to be vacated;

(g) order any structure or building that is or constitutes an insanitary condition that cannot be abated, or, after an order made under clause (e), is not abated within the time specified in the order, to be demolished;

(h) authorize a public health inspector to enter an occupied dwelling house and inspect it without the consent of the owner or occupant;

. . .

Powers of public health inspectors

19 For the purposes of enforcing this Act and the regulations, and any bylaw of a municipality relating to health, the public health inspector may, upon presentation of a certificate or other means of identification as prescribed in the regulations,

(a) at all reasonable times enter any place or premises other than an occupied dwelling house and inspect the same without the consent of the owner or occupant thereof;

(b) enter any occupied dwelling house and inspect the same where the owner or occupant thereof does not object or refuse admission;

. . .

(d) with the written authority of the medical officer of health, enter any unoccupied dwelling house and inspect the same without the consent of the owner or occupant thereof. S.M., 1965, c.62, s.19; am.

. . .

Assistance of enforcing Act and regulations

22 Where a medical officer of health, public health inspector, or public health nurse, is required or empowered under this Act or the regulations or a bylaw of a municipality relating to health, to do or to prevent, direct, order, or enforce the doing of anything, he may use such force and employ such assistance as is necessary to accomplish what is required or what he is empowered to do, and may, where obstructed in so doing, call for assistance of a peace officer or any other person, and every peace officer or person so called upon shall render assistance. S.M., 1965, c.62, s.22.

PROCEDURE ON ORDERS

Report to minister or municipality

23(1) Where, under this Act or the regulations, a medical officer of health

(a) orders an insanitary condition to be abated; or
(b) orders premises to be vacated; or
(c) orders a building or structure to be demolished; or
(d) orders or requires anything to be done; or
(e) orders or requires any person to desist from doing anything;

and the person to whom the order or requirement is directed fails or neglects to comply with it if, in the opinion of the medical officer of health, compliance with the order or requirement will

(f) involve an expenditure or loss exceeding two thousand dollars; or
(g) seriously interfere with any business, trade, or industry;

he shall, before proceeding to enforce the order or requirements, or recommending prosecution for failure to comply with the order or requirement, report the matter and the circumstances thereof to the municipality concerned or to the minister or to both.

Idem
23(2) Where a medical officer of health finds

(a) an insanitary condition that, in his opinion, should be abated; or
(b) premises that, in his opinion, should be vacated; or
(c) a building or structure that, in his opinion, should be demolished; or
(d) any circumstances or situation in respect of which, in his opinion, any order should be made or any requirement should be imposed;

and he cannot find or locate the person to whom any order or requirement in respect thereto would be directed, if, in his opinion, compliance with any such order or requirement would

(e) involve an expenditure or loss exceeding two thousand dollars; or
(f) seriously interfere with any business, trade, or industry;

he shall report the matter and the circumstances to the municipality concerned or to the minister or to both.

Order of court required
23(3) Where a medical officer of health makes a report under subsection (1) or (2), no further action shall be taken to enforce any order or requirement or to prosecute any person for failure to comply with the order or requirement or to make any order or impose any requirement without an order of the Court of Queen's Bench.

Application for order
23(4) An order to which reference is made in subsection (3) may be granted by a judge of the Court of Queen's Bench in Chambers upon the application of the minister or the municipality concerned; and the judge, in making the order, may direct what steps are to be taken to abate the insanitary condition, to vacate the premises, to demolish the building or structure, to enforce the doing of anything, or to prevent the doing of anything, and may make the order subject to such terms and conditions as he thinks advisable. S.M., 1965, c.62, s.23.

Appeal
24(1) Where, under this Act or the regulations, a person is ordered or required

(a) to abate an insanitary condition; or
(b) to vacate premises; or
(c) to demolish a building or structure; or
(d) to do anything; or
(e) to desist from doing anything;

he may appeal against the order or requirement to the County Court of the County Court District in which the condition, premises or structure is situated or, where he is ordered or required to do something or desist from doing something, in the County Court of the County Court District in which he resides, by filing a notice of appeal with the clerk of the County Court and serving a copy thereof on the person making the order or requirement.

Time for launching appeal

24(2) Where the order or requirement states that the person appealing shall comply with the order or requirement within a specified period of time of less than seven days, the notice of appeal mentioned in subsection (1) shall be filed and served within the period of time stated in the order or requirement.

Idem

24(3) Where the order or requirement does not state any period of time within which the person appealing shall comply with the order or requirement, the notice of appeal mentioned in subsection (1) shall be filed and served within seven days of the date on which the person received notice of the order or requirement.

Form of notice

24(4) The notice of appeal shall set forth the order or requirement appealed against and the grounds of the appeal.

Appointment for hearing

24(5) Where a notice of appeal has been filed and served in accordance with this section, the judge of the County Court in which the notice of appeal is filed, upon application

(a) by the person appealing; or
(b) by the person making the order or requirement; or
(c) by the municipality in which the condition, premises or structure is situated or in which the person appealing resides;

may by appointment in writing set a time and place to hear and determine the appeal.

Serving of appointment

24(6) The appointment referred to in subsection (5), together with a copy of any affidavit to be used at the hearing of the appeal by the person obtaining the appointment, shall be served upon all other parties to the appeal not less than four clear days before the return day thereof.

Stay of proceedings on order

24(7) Where a notice of appeal has been filed and served in accordance with this section, no further action shall be taken in respect of the order or requirement except in accordance with an order of the court to which the appeal is taken.

Order of court
24(8) On hearing the appeal, the court may

(a) confirm the order or requirement; or
(b) quash the order or requirement; or
(c) vary the order or requirement to conform to any order or requirement that might have been made under this Act or the regulations under the circumstances;

and may direct what steps are to be taken to comply with the order and may make the order subject to such terms and conditions as it deems advisable.

Discontinuance of appeal
24(9) Where a medical officer of health makes a report under section 23, no appeal shall be taken under this section and any appeal proceedings taken under this section shall be deemed to have been discontinued by the appellant upon the filing with the clerk of the County Court in which the notice of appeal is filed of an affidavit by the medical officer of health stating that such a report has been made. En. S.M., 1968, c.50, s.4.

. . .

Cost of abatement, etc.
26 Where under this Act or the regulations a person is ordered or required

(a) to abate an insanitary condition; or
(b) to vacate premises; or
(c) to demolish a building or structure; or
(d) to do anything; or
(e) to desist from doing anything

and the person does not comply with the order or requirement, after the expiry of the time within which the order or requirement may be appealed under this Act, the person making the order or requirement may take such steps and do such things as are necessary

(f) to abate the insanitary condition; or
(g) to vacate the premises; or
(h) to demolish the building or structure; or
(i) to have the thing done; or
(j) to prevent the thing being done;

as the case may require; and the amount of the expenses incurred in that respect is a debt due to, and may be recovered by, the municipality within which the condition, premises, building or structure is situated or within which the thing is done or prevented from being done, or the government where the condition, premises, building or structure is situated in unorganized territory or the thing is done or prevented from being done in unorganized territory. S.M., 1965, c.62, s.25; R.&S., S.M., 1968, c.50, s.7.

Recovery of expenses

27 Where expense incurred under section 26 is not paid to the municipality or the government, the amount thereof may be

(a) collected as a debt owing to the municipality or the government, as the case may be; or

(b) entered as a tax on the tax roll of the municipality against the property with respect to which the expense was incurred and recovered in the same manner as municipal taxes. S.M., 1965, c.62, s.26.

Entry of owner of land under lease

28 Where, under this Act or the regulations, the owner of any premises is ordered or required to do anything with respect to the premises, he may, notwithstanding the provisions of any lease or tenancy, oral or written, enter on the premises by himself, his agents, or his employees, for the purpose of complying with the order or the requirement. S.M., 1965, c.62, s.27.

. . .

REGULATIONS

Regulations

34 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make such regulations and orders as are ancillary thereto and are not inconsistent therewith; and every regulation or order made under, and in accordance with the authority granted by, this section has the force of law; and without restricting the generality of the foregoing, the Lieutenant Governor in Council may make such regulations and orders, not inconsistent with any other provision of this Act,

. . .

(13) respecting the prevention and removal or abatement of insanitary conditions on public or private property and the prevention of acts that contribute to insanitary conditions;

. . .

(26) respecting the site, construction, plumbing, lighting, ventilation, heating, furnishings, equipment, and sanitary condition of buildings used for human habitation or for business purposes and the inspection thereof;

. . .

(33) respecting the destruction of rodent pests, insect pests, and vermin of all kinds, and the methods and chemicals used in destroying them or controlling them;

. . .

OFFENCES AND PENALTY

General penalty
39(1) A person who contravenes or fails to comply with any provision of this Act or the regulations, or who disobeys or fails to comply with or carry out an order or direction lawfully made or given under this Act or the regulations, is guilty of an offence and liable, on summary conviction, to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment. R.&S., S.M., 1968, c.50, s.9.

Continuing offence
39(2) A violation of this Act or the regulations, or a failure to comply with this Act or the regulations or an order or direction lawfully made or given under this Act or the regulations that continues for more than one day, constitutes a separate offence on each day during which it continues. R.&S., S.M., 1968, c.50, s.9.

Obstruction of officer
39(3) A person who wilfully obstructs an official acting in pursuance of this Act or of the regulations in the discharge of his duty is guilty of an offence and is liable, on summary conviction, to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding one month, or to both such a fine and such an imprisonment. Am.

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Quashing of convictions
40 No warrant, order, or conviction, or other proceeding, matter, or thing, done, issued, or transacted, in or relating to the execution of this Act, shall be vacated, quashed, or set aside, for want of form. S.M., 1965, c.62, s.39.

Prosecutions by department
41 No prosecution or proceeding for violations of this Act or a regulation, or an order or direction made hereunder, shall be instituted by an officer of the department without the written consent of the minister. S.M., 1965, c.62, s.40.

Disposition of penalty
42 Every fine recovered under this Act upon a prosecution brought by, or at the instance of, an official of a municipality shall be paid to the municipality in which the offence was committed; and every fine recovered upon any other prosecution shall be paid to the Minister of Finance. S.M., 1965, c.62, s.41.

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DIVISION XII
As amended by M.R. 91/74
DWELLINGS AND BUILDINGS

174 In this Division

(a) "apartment house" means a dwelling consisting of two or more suites;

(b) "basement" means a portion of a building, between a floor and ceiling, that is located partly underground, but with more than half of the floor to ceiling height thereof above the average grade of the adjoining ground;

(c) "cellar" means a portion of a building, between a floor and a ceiling, that is located wholly underground or partly underground, but with more than half of the floor to ceiling height below the average grade of the adjoining ground;

(d) "dwelling" means a building or other structure all or part of which is used, or intended to be used, for human habitation;

(e) "dwelling unit" means
  (i) a single family dwelling; or
  (ii) a suite; or
  (iii) one or more rooms used as a residence by one family;

(f) "family" means
  (i) a person living alone and providing his own meals and being responsible for his own housekeeping; or
  (ii) two or more persons, whether related or not, who are living together as a housekeeping unit;

(g) "habitable room" means a room or enclosed floor area used, or intended to be used, for living, sleeping, cooking,or eating purposes, but does not include a water closet compartment, laundry, pantry, foyer, communicating corridor, closet, storage space, or a room in a cellar used only for recreational purposes;

(h) "lodging house" means any building or part thereof designed, intended, or used as a dwelling, in which persons are harboured, received, or lodged, or accommodation is let for sleeping purposes by the week or less period of time, but does not include a hotel licensed as such;

(i) "hot water" means water having a temperature of at least one hundred and ten degrees Fahrenheit as it comes from the tap;

(j) "multiple family dwelling" means a dwelling occupied or intended to be occupied by two or more families, and in which all or any of the plumbing fixtures, or sanitary facilities, are used by more than one family, but does not include a rooming house or lodging house;

(k) "roomer" means an occupant of a dwelling who
  (i) is not a member of the family owning or renting that dwelling; and
  (ii) does not provide his own meals;

(l) "rooming house" means a dwelling in which two or more rooms are rented and used by families living separately; all or some of whom use common lavatory and toilet facilities, and to whom cooking facilities may or may not be available, but does not include a dwelling in which rooms are rented to four, or fewer than four, persons excluding the proprietor and his family, but does not include a hotel;

(m) "single family dwelling" means a dwelling occupied or intended to be occupied by one family, containing or having cooking facilities and all required plumbing fixtures or sanitary facilities for the use of that family;

(n) "suite" means one or more connected rooms in a dwelling occupied, or intended to be occupied, by one family and containing or having cooking facilities and all the required plumbing fixtures or sanitary facilities for the sole use of that family.

175(1) The owner of any dwelling, occupied building, or other place to which some or all members of the public have access, shall provide it with toilet facilities to the satisfaction of the medical officer of health, either within or outside the building, and shall at all times maintain them in good repair.

175(2) No building or part thereof used as a dwelling shall be used for

(a) housing horses, cattle, sheep, pigs, goats, or fowl; or
(b) the storing or sorting of rags, bones, or other refuse.

176(1) A habitable room shall be provided with at least one window facing an open space that is unobstructed for a distance of at least five feet by any fence, wall, or other structure.

176(2) The glass area of the window or windows in any room to which subsection (1) applies shall not be less than one-tenth of the floor area; and, for the purpose of this subsection, no glass area that is below the level of the ground adjacent to the building shall be included in the computation of the required glass area, except that where, in the opinion of the medical officer of health, there is adequate artificial lighting and provision for adequate ventilation, a glass area of less than one-tenth of the floor area may be deemed acceptable.

176(3) No partition shall obstruct the light from windows to which subsections (1) and (2) apply from having access to all parts of the room.

176(4) A skylight shall not be the sole means of lighting any habitable room; but a skylight may be used as a supplementary means of lighting if it is constructed so as to be water-tight and protected in a suitable manner against condensation.

176(5) Unless a satisfactory alternative means of ventilation is provided, at least one of the windows to which subsection (1) refers shall be capable of being readily opened.

176(6) No building shall be occupied as a dwelling unless it has windows on at least two sides thereof.

177 Each dwelling unit shall have at least eighty square feet of habitable floor area for each occupant thereof; and the floor area shall be calculated on the basis of the total area of the habitable rooms.

178(1) Each room used for sleeping purposes in a dwelling shall have a floor area of at least sixty square feet, and shall have at least forty square feet of floor area for each occupant.

178(2) For the purposes of this Division, no portion of the floor area of a room above which the height of the ceiling over the floor is less than four feet six inches shall be included in the computation of the required floor area.

178(3) The height of a room shall not be less than seven feet over half the required floor area, except where, in the opinion of the medical officer of health, the total cubic area of the space to be occupied is of such dimensions that a ceiling height of less than seven feet is acceptable.

178(4) Failure to provide the minimum requirements set out in this section constitutes overcrowding.

178(5) Where he thinks it necessary, the medical officer of health may affix to any dwelling unit or any room in any lodging house, rooming house, hotel, or other building, a notice stating thereon the number of persons who may occupy that dwelling unit or room; and the owner or person in charge is responsible for ensuring that the number of persons so occupying the unit or room conforms to the requirements of the notice.

178(6) The medical officer of health, or a person authorized by him, may, at all reasonable times, enter and inspect any premises in which he has reason to believe that any provision of this Division is being violated.

179(1) The medical officer of health may, when he thinks it necessary, require that storm sashes, storm doors and screened doors be provided for any dwelling unit or room.

179(2) When directed by the medical officer of health, fly screens shall be provided in all windows used for ventilating purposes from the first day of May to the thirty-first day of October in each year, and the screens shall be tight-fitting covering the entire openable area of the windows.

179(3) Storm sashes used in the windows required for ventilating purposes shall be provided with sliding or hinged sub-sashes of at least eighty square inches, or hinges so arranged as to allow the whole storm window to open.

179(4) All storm sashes, storm doors, screened doors and screen sashes shall be provided by the owner of the premises, and shall be maintained in good repair by the owner or occupant.

180(1) All furnaces, steam and water boilers, and all piping and equipment pertaining thereto, including smoke pipes and chimneys, that are a permanent fixed installation in any building used for human habitation shall be maintained by the owner of the premises in good repair and proper working order.

180(2) All heating equipment and smoke pipes pertaining thereto shall be maintained by the owner of the equipment in good repair and proper working order.

180(3) Gas stoves, water heaters, and other gas appliances shall be provided with suitable pipes or flues or other effective means for the removal of the products of combustion; and all such appliances shall be kept by the owner of the appliances in proper state of repair and in proper working order.

181(1) All roofs of buildings, including eavestroughing and rain water piping, shall be water-tight and be kept by the owner of the premises in good repair.

181(2) All rain water from the roof of any building shall be properly disposed of in such a manner as to prevent dampness or damage that, in the opinion of the medical officer of health, may be injurious to health.

182(1) Cellar and basement walls and floors shall be constructed of brick, stone, concrete, or other material impervious to ground or other external moisture factors, and shall be so constructed as to drain effectively all water from the surface into a properly constructed and drained catch basin sufficient to prevent flooding of the floor or foundation, or otherwise create an insanitary condition.

182(2) Natural or artificial ventilation shall be provided in all cellars to the satisfaction of the medical officer of health.

182(3) No person shall occupy a room in a cellar, or part thereof, as a habitable room or dwelling unit, or let to another any cellar, or part thereof, as a habitable room or as a dwelling unit, except with the written permission of the medical officer of health.

183 No person shall establish, operate, or maintain an office, factory, workshop, store, place of assembly, or place of business of a public character, (hereinafter, in this Division, called "business premises") in a cellar or basement, without the permission of the medical officer of health.

184 Where a person has obtained the permission of the medical officer of health to establish, operate, or maintain business premises, in a cellar or basement he shall

(a) decorate the walls and ceiling of the business premises, in light colours and keep them free from dust and dirt;

(b) provide artificial lighting, a system of ventilation, and a system of heating, that is satisfactory to the medical officer of health and that will be conducive to the health of persons employed in, or using, or having access to, the business premises;

(c) provide adequate toilet facilities satisfactory to the medical officer of health; and

(d) keep the business premises free from dampness that would be detrimental to the health of persons employed therein, or having use thereof, or having access thereto.

185 No person shall let a multiple family dwelling, lodging house or rooming house to another person and no other person shall operate or cause to be operated any multiple family dwelling, lodging house, or rooming house unless

(a) the windows of all rooms are equipped with blinds or curtains to ensure privacy;

(b) the furniture, beds, bedspreads, bedsprings, pillows, mattresses, bed linen, blankets, and bed covers are maintained in good repair and in a clean and sanitary condition;

(c) separate towels are provided for each person if towels are furnished for guests, tenants, or employees;

(d) on each storey on which meals are prepared, there is at least one sink available to all persons preparing meals;

(e) a supply of hot and cold running water is supplied to each wash basin, sink, and bath at all times to the satisfaction of the medical officer of health;

(f) all walls and ceilings are maintained in good repair, in a clean condition, and are painted or otherwise cleansed and redecorated when deemed necessary by the medical officer of health or inspector;

(g) all floors and floor coverings are in good repair and such coverings are well fitting;

(h) there is located on the premises, to the satisfaction of the medical officer of health or inspector, one water closet and one wash basin for each ten persons, or fraction thereof, in residence, and a minimum of one water closet, one wash basin, one bath, and one sink;

(i) the plumbing fixtures and the room in which they are installed
   (i) are located so as to be accessible to all tenants at all times; and
   (ii) are kept in a clean and sanitary condition;

(j) each water closet is provided with seats in good repair;

(k) an adequate supply to toilet paper is provided for each water closet;

(l) each room or compartment enclosing a water closet or bath designed to be used separately is enclosed by a substantial partition extending from the floor to the ceiling;

(m) each water closet compartment and bath compartment is provided with a door capable of being securely fastened by the person using the facilities;

(n) doors to the entrances of rooms occupied by roomers and doors to the entrances of dwelling units are capable of being locked inside and outside the rooms or dwelling units; and

(o) all doors have passage sets in good repair except those doors referred to in clause (n) of section 185.

186(1) No owner of a dwelling that is connected to a sewer and water system shall let the dwelling, or a part thereof, to another person unless

(a) at least one water closet, one wash basin, one bath and one sink have been installed in the dwelling, each of which is in proper working condition and easily accessible to all occupants of the dwelling; except that a shower in proper working order may be installed in place of a bath at the discretion of the medical officer of health;

(b) each sink, wash basin, and bath or shower is served with hot and cold running water;

(c) a wash basin is installed in close proximity to each water closet;

(d) each water closet is equipped with a seat in good repair; and

(e) the plumbing system is in good repair and proper working order;

and while the dwelling is occuped by a tenant, the owner thereof shall continue to maintain the dwelling in the condition required under this subsection.

186(2) No owner of a dwelling shall let it or a dwelling unit therein to any person unless

(a) bedrooms are provided with doors to ensure privacy;

(b) doors to the entrances of rooms occupied by roomers and doors to the entrances of dwelling units are capable of being locked inside and outside the rooms or dwelling units;

(c) all doors have passage sets in good repair except those doors to which reference is made in clause (n) of section 185 and in clause (b) of this subsection;

(d) the foundation is weather tight, rodent proof, and in good repair;

(e) heating equipment that is capable of adequately and safely heating the dwelling, is installed therein;

(f) stairs and staircases are in good repair;

(g) door and window frames are maintained in good repair;

(h) all exterior walls, doors, and windows are weather tight, close fitting, and maintained in good repair;

(i) all interior partitions, doors, walls and ceilings are close fitting, kept in good repair, have surfaces that are smooth and clean, and can easily be kept clean, and are painted and redecorated when deemed necessary by the medical officer of health or inspector;

(j) the walls and ceilings are free from major cracks and crevices that, in the opinion of the medical officer of health, may create a condition detrimental to the health of the occupant;

(k) all floors are level and of such construction, and in such a state of repair, that they can be readily kept clean, and are kept free from major cracks, crevices, depressions, splinters, and other defects that in the opinion of the medical officer of health may create a condition detrimental to the health of the occupant;

(l) floor coverings are in good repair and well fitting, and can easily bekept clean; and

(m) the premises are free of insect pests and rodents.

186(3) While a dwelling is occupied by a tenant, the owner thereof shall continue to maintain the dwelling in the condition required under subsection (2).

186(4) This section does not apply to a dwelling that is inhabited solely by the owner and his family, and from which he derives no income by way of rent paid by any member of his family.

187 No apartment house, lodging house, or rooming house shall be operated unless,

(a) adequate lighting is provided in all storage rooms, locker rooms, laundries, and compartments containing plumbing fixtures;

(b) every corridor, hall, and stairway is lighted at all times in accordance with the recommended practice for lighting in buildings contained in the 1970 National Building Code;

(c) every corridor, hall, and stairway is fitted with a handrail on at least one side and, where the stairway exceeds forty-four inches in width or both sides of the stairway are unprotected, is fitted with a handrail on each side; and

(d) every handrail required under clause (c)
  (i) is continuous between landings,
  (ii) is so constructed and fitted that there is no obstruction on or above the handrail that may break a hand hold,
  (iii) is fastened at a uniform height, being not less than thirty inches nor more than forty-two inches measured vertically from the surface of each stairtread to the top of the handrail,
  (iv) where the handrail is fastened to a wall, has a uniform clearance of at least one and one-half inches between the handrail and the wall to which it is fastened, and
  (v) where only one handrail is required under clause (c), and one side of the stairway is unprotected, is located on the unprotected side.
  Am. M.R. 91/74.

Note: The relevant provisions of the National Building Code may be inspected in the library of The Department of Health and Social Development in the Norquay Building, 401 York Avenue, Winnipeg 1. Am. M.R. 91/74, s.1.

188(1) Subject to subsection (3), the person responsible for the heating shall arrange for the provision of sufficient heat to enable the rooms or suites to be maintained at a temperature of not less than seventy degrees Fahrenheit between the hours of 7:00 a.m. and 11 p.m. each day and at a temperature of not less than sixty-five degrees Fahrenheit during the remaining hours of each day.

188(2) For the purpose of subsection (1) the required temperature shall be at a height of 30 inches from the floor in the centre of each occupied room.

188(3) Subsection (1) does not apply during a period when a heating boiler is shut down at the request of an inspector of The Department of Labour for the purposes of an inspection as required by The Steam and Pressure Plant Act.

189(1) Each dwelling shall be of sound construction throughout, suitable and satisfactory in every respect for the purpose intended; and shall be maintained in good repair and in a clean condition throughout.

189(2) In every apartment house that has plumbing installed there shall be in each suite at least one sink, one water closet, one bath, and one wash basin; except that a shower may be installed in place of a bath at the discretion of the medical officer of health.

189(3) In a dwelling that has plumbing installed the owner or occupant, or any other person responsible, shall provide all plumbing fixtures with a constant supply of running water.

190 No gas appliance of any kind shall be installed in any room used for sleeping purposes; and no person shall use, or allow to be used, for sleeping purposes any room containing a gas stove or other gas appliance.

ENFORCEMENT PROVISIONS

191(1) Where, in the opinion of the medical officer of health,

(a) there exists on any premises or portion thereof an insanitary condition; or

(b) any premises or portion thereof is in disrepair to such a degree as to be unfit for occupation;

he may, pursuant to the powers vested in him under section 18 of the Act, make and serve, or cause to be served, on the owner, or the person in charge, or the occupant of the premises, or any two or more of them, a written order signed by him requiring that the insanitary condition be abated and that such repairs, if any, be made as he may deem necessary to make the premises habitable, within a time stated in the order; and, if he deems it necessary, he may, by the same or another written order, signed by him, require the occupants of the premises to vacate the premises before such date as he deems to be reasonable, and as is stated in the order, and may prohibit any further occupation of the premises until all the insanitary conditions have been abated, and all the required repairs have been effected, and he has, by his further written order, declared the premises to be habitable.

191(2) Where

(a) the owner, person in charge, or occupant of premises to which subsection (1) applies, or any portion thereof, refuses or neglects to comply with an order served under subsection (1); or

(b) the occupants vacate the premises before the date fixed in the order, but the other requirements of the order have not been complied with; or

(c) the premises are unoccupied, or the owner or person in charge thereof cannot be found in order to serve the order made under subsection (1);

the medical officer of health, pursuant to powers vested in him under section 18 of the Act, may affix or cause to be affixed, to any such premises placards declaring the premises or any portion thereof to be unfit for occupation and forbidding use or occupancy thereof.

191(3) Notices affixed under this section shall not be removed, defaced, or covered except with the permission of the medical officer of health.

191(4) Except with the permission of the medical officer of health, no person shall occupy, or allow to be occupied, any premises

(a) in respect of which an order has been made under subsection (1) prohibiting the occupancy thereof; or

(b) to which a placard has been affixed as provided in subsection (2).

FLOOD CONDITIONS AND INSANITARY PREMISES

192 Where premises have, from any cause, been flooded, the medical officer of health may cause to be listed and placarded as provided in section 191, any building that, in his opinion, is not in fit condition to be used as a habitable dwelling, lodging place, or place of business.

193 The placard to be used under section 192 shall be in such form and of such colour, as may be prescribed by the minister.

194 The owner, tenant, or other occupant of any premises placarded under section 192 shall not use the premises for any purpose unless he first obtains the written permission of the medical officer of health or of an inspector.

Excerpt from the City of Winnipeg Act
(updated to October, 1983)

MINIMUM STANDARDS OF MAINTENANCE AND OCCUPANCY.

Definitions.

640 In sections 640 to 651 inclusive, unless the context otherwise requires,

(a) "dwelling" includes any building, part of a building, trailer or other covering structure, the whole or any portion of which has been used, is used or is capable of being used for the purposes of human habitation, with the land and premises appurtenant thereto and all outbuildings, fences or erections thereon or therein and every dwelling unit within the dwelling;

(b) "dwelling unit" means one or more rooms located within a dwelling and used or intended to be used for human habitation by one or more persons;

(c) "inspector" means the person from time to time holding the office of supervisor of building inspections and the person from time to time holding the office of medical officer of health for the city and such assistants to those officers as may be designated by those officers;

(d) "order" means a notice of non-conformance and order to demolish, vacate, or repair a dwelling or non-residential property pursuant to a by-law passed under section 641;

(e) "owner" includes the person,

  (i) for the time being managing or receiving the rent of the land or premises in connection with which the word "owner" is used, whether on his own account or as agent or trustee of any other person, or

  (ii) who would so receive the rent if such land and premises were let, or

  (iii) a vendor of such land under an agreement for sale who has paid any land taxes thereon after the effective date of the agreement, or

  (iv) the person for the time being receiving instalments of the purchase price of the land or premises in connection with which the word "owner" is used, sold under an agreement for sale whether on his own account or as agent or trustee of any other person, or

  (v) who would so receive the instalments of the purchase price if such land or premises were sold under an agreement for sale;

(f) "repair" includes taking the necessary action to bring any dwelling or non-residential property up to the standards;

(g) "standards" means the standards for the maintenance and improvement of the physical condition and for the fitness for occupancy prescribed by a by-law passed under section 641; and

(h) "non-residential property" means a building or structure or part thereof not occupied in whole or in part for the purposes of human habitation, with the land and premises appurtenant thereto, and all outbuildings and fences thereon or therein.

S.M. 1971, c. 105, s. 640; Am. S.M. 1972, c. 93, s. 85; S.M. 1974, c. 73, s. 96; S.M. 1978, c. 53, s. 36.

Power of council to fix building standards.

641 In addition to all other powers delegated by this or any other Act, the council may pass by-laws applicable to the city or any area or areas within the city,

(a) for fixing the standards of fitness for human habitation to which all dwellings shall conform;

(b) for fixing the standards relating to the state of repair and to the maintenance of the physical condition of the exterior surfaces of dwellings;

(c) for defining "non-hazardous", "hazardous" and "immediately dangerous" non-conformances to standards fixed by by-law passed under clauses (a) and (b);

(d) for requiring the owners of dwellings that do not conform to the standards to make them so conform;

(e) for requiring the owner of a dwelling, and that does not conform to the standards, to demolish all or any part thereof;

(f) for prohibiting the use of dwellings that do not conform to the standards;

(g) for authorizing the placarding, in such manner as the by-law may specify, of dwellings that do not conform to the standards;

(h) for prohibiting the pulling down or defacing of any such placard;

(i) for regulating the occupancy of dwellings;

(j) for appointing one or more inspectors;

(k) for authorizing an inspector with the consent of the owner or occupier, but subject to section 143.1, to enter upon and inspect any dwellings or non-residential property or post any orders made pursuant to sections 640 to 651 inclusive in such dwellings or non-residential property after notice to an adult occupant and at reasonable times;

(l) for fixing standards for non-residential property or any class or classes thereof within the city or within any defined area or areas and for prohibiting any person from using or permitting to be used, any such non-residential property that does not conform to the standards; and

(m) for requiring the owner of any non-residential property and, to the extent that he is made responsible by the lease or agreement under which he occupies the property, the occupant thereof to repair and maintain the non-residential property in accordance with the standards or demolish the whole or any part of the non-residential property.

S.M. 1971, c. 105, s. 641; Am. S.M. 1972, c. 93, s. 86; Am. S.M. 1974, c. 73, s. 97.

Inspector may make order.

642 (1) If as a result of his inspection of a dwelling or non-residential property an inspector is satisfied that a dwelling or non-residential property does not conform to a standard, he may make an order, a copy of which shall be served forthwith on the owner of the dwelling or non-residential property by registered mail to him at his address as shown on the assessment roll of the city or by serving him personally and a copy of the order shall be posted in a conspicuous place in the dwelling or non-residential property.

Am. S.M. 1974, c. 73, s. 98.

Substitutional service.

642(1.1) Where the inspector is unable to locate the owner of a dwelling or non-residential building for the purpose of serving him with an order under subsection (1), the inspector may apply to a judge of the county court district in which the building is situated for an order allowing substitutional service of the order and, if the judge is satisfied that all reasonable efforts have been made to effect personal service of the order on the owner, he may order that service of the order be effected by posting it on the building or by publication in the newspaper or by other means or by any or all of those means and compliance with the order shall be conclusively deemed to be equivalent to personal service on the owner.

En. S.M. 1982-83-84, c. 96, s. 61.

Information contained in order.

642 (2) The order shall contain,

(a) a description of the dwelling or non-residential property sufficient to identify it;

(b) the particulars of each non-conformance and the date by which it must be corrected, provided that the date by which each non-conformance must be corrected shall be not less than three weeks from the date of mailing of the notice in the case of non-hazardous non-conformances, ten days from the date of the mailing of the notice in the case of hazardous non-conformances and forthwith, in the case of immediately dangerous non-conformances; and

(c) the final date for giving notice of objection from the order.

Am. S.M. 1972, c. 93, s. 87

Attachments to order.

642 (3) There shall be attached to the order

(a) a form of notice of objection which shall indicate the place to which the notice of objection shall be delivered;
(b) a notice of correction to be returned to the city when the non-conformances have been corrected; and
(c) notice of the penalty for each non-conformance.

Notice of correction.

642 (4) The notice of correction referred to in clause (b) of subsection (3) shall require such information to be provided respecting the correction of each non-conformance as the council deems advisable and shall be in a form satisfactory to the council.

Postponement of time limit.

642 (5) The inspector may postpone the last day when a non-conformance must be corrected as shown in the order only upon a showing by the owner that he is making reasonable efforts to correct the non-conformance, but that full correction cannot be completed within time provided because of technical difficulties, inability to obtain necessary materials or labour, or inability to gain access to the dwelling or non-residential property unit wherein the non-conformance occurs.

Am. S.M. 1972, c. 93, s. 87.
S.M. 1971, c. 105, s. 642; Am. S.M. 1972, c. 93, s. 87; Am. S.M. 1974, c. 73, s. 98.
S.M. 1982-83-84, c. 96, s. 61.

Owner may object to order.

643 (1) The owner, or a person authorized in writing by him to act on his behalf may object to an order or any provision thereof by filing with the city a notice of objection within seven days following the serving and posting of a copy of the order, pursuant to subsection (1) of section 642, whichever last occurs.

Community committee to consider objection.

643 (2) The objection shall be considered by the community committee for the community in which the dwelling or non-residential property is located.

Am. S.M. 1972, c. 93, s. 87.

Notice of meeting.

643 (3) The community committee shall fix a time and a place for a meeting to consider the objection, and cause not less than three days notice of the meeting, to be served by registered mail on the appellant at his address as shown on the city's last assessment roll, provided that in no case shall a meeting date be fixed later than 30 days following the filing of the notice of objection pursuant to subsection (1).

Am. S.M. 1977, c. 65, s. 21

Meeting.

643 (4) On the day and at the time and place stated in the notice, the community committee shall conduct the meeting and receive representations from the appellant and the inspector or inspectors, or any person appearing on their behalf.

Community committee may adjourn meeting.

643 (5) The meeting may be adjourned from time to time and may be resumed at such time and place as the community committee which is conducting the meeting may decide.

Action which community committee may take.

643 (6) The community committee after conducting the meeting may,

(a) affirm the order;
(b) rescind the order if they find that the appellant conformed to the standards; or
(c) vary the order to meet the circumstances of the case, either by extending the time within which compliance with the order shall be made, or otherwise.

Review by designated committee.

643 (7) The designated committee may review the community committee's decision under subsection (6) or rescind or vary an order within fourteen days following the decision and may,

(a) affirm the decision of the community committee; or
(b) set aside the decision and restore the order made by the inspector.

Am. S.M. 1972, c. 93, s. 88; Am. S.M. 1977, c. 64, s. 128.

Decision of community committee final.

643 (8) Subject to subsection (7), the decision of the community committee shall stand in the place of the order in respect of which the objection is made, for all purposes and the community committee's decision is final.

S.M. 1971, c. 105, s. 643; Am. S.M. 1972, c. 93, ss. 87 & 88; Am. S.M. 1977, c. 64, s. 128, & c. 65, s. 21.

Failure to comply with order an offence.

644 (1) Subject to section 643, every person who fails to comply with an order is guilty of an offence.

Defence.

644 (2) Any person accused of an offence under subsection (1), may raise as a defence that, at the time the order was made, the dwelling or non-residential property complied with the standards and if the magistrate is satisfied that the dwelling or non-residential property did comply with those standards at that time, he shall acquit the accused.

Am. S.M. 1972, c. 93, s. 87

Where owner disposes of interest in property.

644 (3) Where a person accused of an offence under subsection (1) was the owner of a dwelling or non-residential property on the day the order was served and posted as provided in subsection (1) of section 642, it is not a defence that he is no longer the owner thereof.

Am. S.M. 1972, c. 93, s. 87
S.M. 1971, c. 105, s. 644; Am. S.M. 1972, c. 93, s. 87.

City may advance cost of repairs.

645 (1) Where the council is of the opinion that the owner of a dwelling or non-residential property is unable to pay the cost of making it conform to the standards, the city may advance money to or for the benefit of the owner to the extent necessary to pay the cost.

Am. S.M. 1972, c. 93, s. 87.

Lien.

645 (2) Where the city has advanced money as provided in subsection (1), it has a lien upon the dwelling or non-residential property in respect of which the advance was made, for the amount of the advance, together with interest thereon at the then current rate for money borrowed by the city plus two per cent per annum if security is not given.

Am. S.M. 1972, c. 93, s. 87.

Recovery by city of money advanced.

645 (3) The amount of an advance made under subsection (1) with interest thereon is repayable by the owner of the dwelling or non-residential property in equal consecutive annual instalments, which shall be paid over a period of years, fixed by the council, but not exceeding ten years, and which shall be added in the tax roll to the taxes on the land mentioned in subsection (2) in each year, during the period fixed under this subsection, and shall be collected in the same manner as ordinary taxes in arrears.

Am. S.M. 1972, c. 93, s. 87.

Owner occupied premises.

645 (4) Notwithstanding subsection (3), where an advance is made under subsection (1) to an owner who occupies a dwelling in respect of the cost of making it conform to standards relating to the maintenance of the physical condition of its exterior surfaces, the amount of the advance with interest thereon is not repayable until he ceases to occupy the dwelling, transfers title to another person otherwise than by mortgage or dies, whichever shall first occur.

Period for repayment may vary.

645 (5) The period fixed under subsection (3) need not be the same in the case of each advance.

Registration in Land Titles Office.

645 (6) A certificate of the clerk of the city setting out the amount advanced to, or for the benefit of, any owner under subsection (1) and the rate of interest thereon, together with a description of the land occupied by, or appurtenant to, the dwelling or non-residential property in respect of which the amount was advanced, sufficient to identify the land, shall be registered in the Winnipeg Land Titles Office against the land upon proper proof by affidavit of the signature of the clerk.

Am. S.M. 1972, c. 93, s. 87.

Discharge of lien.

645 (7) Upon repayment in full to the city of the amount advanced and the interest thereon, a certificate of the clerk of the city showing the repayment may be registered in like manner as provided in subsection (5) and the land is thereupon discharged from liability with respect to the advance and interest thereon, and from the lien arising therefrom, provided that on application therefor by the owner, the clerk shall provide him with a certificate of repayment.

S.M. 1971, c. 105, s. 645; Am. S.M. 1972, c. 93, s. 87.

City may repair or demolish.

646 (1) If the owner of a dwelling or non-residential property fails to repair or demolish it in accordance with an order, the city may repair or demolish all or any part of it and in so acting do any work on adjoining land, buildings or structures necessitated by such demolition or repair.

En. S.M. 1972, c. 93, s. 89; Am. S.M. 1974, c. 73, s. 99.

Entry after notice.

646 (1.1) For the purposes of subsection (1), officers, employees and agents of the city may enter upon the dwelling or non-residential property referred to in the order and any adjoining land, buildings or structures after giving reasonable notice of such entry to the owner or owners and to the occupant or occupants of such dwelling or non-residential property and such adjoining land, buildings or structures.

En. S.M. 1972, c. 93, s. 89; Am. S.M. 1974, c. 73, s. 99.

Manner of giving notice.

646 (1.2) The notice referred to in subsection (1.1) is properly given if it is sent to the owner or owners by registered mail at his or their address as shown on the assessment roll of the city, and to the occupant or occupants if it is sent to him or them by registered mail addressed to them at the dwelling or non-residential property or adjoining land, building or structure, as the case may be.

En. S.M. 1972, c. 93, s. 89; Am. S.M. 1974, c. 73, s. 99.

City not liable.

646 (1.3) The city is not liable to compensate the owner of the dwelling or non-residential property or the owner of any adjoining land, building or structure, by reason of anything necessarily done by it or on its behalf under subsection (1) or (1.1).

En. S.M. 1972, c. 93, s. 89; Am. S.M. 1974, c. 73, s. 99.

Lien.

646 (2) The city has a lien on the dwelling or non-residential property in respect of which any amount was expended by or on behalf of the city under the authority of this section, together with interest thereon at the then current rate of interest for money borrowed by the city if security is not given plus two per cent per annum.

Am. S.M. 1972, c. 93, s. 87

Money advanced added to taxes.

646 (3) The amount of money with interest thereon referred to in subsection (2) is repayable by the owner of the dwelling or non-residential property in equal consecutive annual instalments, which shall be paid over a period of years, fixed by the council, but not exceeding ten years, and which shall be added in the tax roll to the taxes on the land mentioned in subsection (2) in each year, during the period fixed under this subsection, and shall be collected in the same manner as ordinary taxes in arrears.

Am. S.M. 1972, c. 93, s. 87.

Certificate of clerk.

646 (4) A certificate of the clerk of the city setting out the amount of money referred to in subsection (1), with interest thereon, together with a description of the land occupied by, or appurtenant to, the dwelling or non-residential property in respect of which the amount was advanced, sufficient to identify the land, shall be registered in the Winnipeg Land Titles Office against the land upon proper proof by affidavit of the signature of the clerk.

Am. S.M. 1972, c. 93, s. 87.

Discharge of lien.

646 (5) Upon repayment in full to the city of the amount of money referred to in subsection (1), with interest thereon, a certificate of the clerk of the city showing the repayment may be registered in like manner as provided in subsection (4) and the land is thereupon discharged from liability with respect to the advance and interest thereon, and from the lien arising therefrom and on application therefore by the owner, the clerk shall provide him with a certificate of repayment.

S.M. 1971, c. 105, s. 646; Am. S.M. 1972, c. 93, ss. 87 & 89; Am. S.M. 1974, c. 73, s. 99.

Payment of rent to the city.

647 In the circumstances referred to in sections 645 and 646, where the dwelling or non-residential property is occupied by a tenant, the city may serve the tenant with a notice in writing requiring him to pay to the city the rent as it comes due up to the amount of the lien; and payment by the tenant to the city is deemed to have the same effect in law as if the rent or part thereof had been paid by the tenant to the city at the direction of the landlord of the dwelling.

S.M. 1971, c. 105, s. 647; Am. S.M. 1972, c. 93, s. 87.

Notice to persons having a registered interest.

648 Before the council exercises its powers under subsection (1) of section 645 or subsection (1) of section 646, a notice in writing shall be sent to all persons having a registered interest in the dwelling or non-residential property specifying wherein the dwelling does not conform to the standards and stating that if all the non-conformances are not corrected within one month after the serving of such notice, the city may proceed to act under section 645 or section 646, as the case may be.

S.M. 1971, c. 105, s. 648; Am. S.M. 1972, c. 93, s. 87.

Order to vacate dwelling.

649 (1) Where the owner of a dwelling or non-residential property fails to repair or demolish a dwelling or non-residential property in accordance with an order, the inspector may order that such dwelling or non-residential property be vacated and may prohibit its use as a dwelling or non-residential property until it is repaired or demolished in accordance with the former order.

Am. S.M. 1972, c. 93, s. 87.

Alternative accommodation available.

649 (2) Notwithstanding subsection (1), an order shall not be made under it unless the inspector is of the opinion that alternative accommodation is available in the city for all occupants of the dwelling.

Service of order.

649 (3) A copy of an order made under subsection (1) shall be served on the owner and posted in the dwelling or non-residential property and subsection (1) of section 642 applies mutatis mutandis.

Am. S.M. 1972, c. 93, s. 87.

Adult to be served.

649 (4) In addition to the service and posting referred to in subsection (3), a copy of the order shall be served on at least one adult occupant of the dwelling or non-residential property.

Am. S.M. 1972, c. 93, s. 87.

When order comes into effect.

649 (5) An order made under subsection (1) comes into effect after the expiry of seven days following the date of the last service or posting referred to in subsections (3) and (4).

Review by community committee.

649 (6) An owner may object to an order made under this section, in which case section 643 applies mutatis mutandis.

Offence.

649 (7) Failure to comply with an order made under this section is an offence and section 644 applies mutatis mutandis.

S.M. 1971, c. 105, s. 649; Am. S.M. 1972, c. 93, s. 87.

Application to court to appoint receiver.

650 (1) Where the owner of a dwelling or non-residential property with respect to that dwelling or non-residential property has failed to comply with an order or orders by correcting the non-conformances with the standards specified therein, in addition to the other remedies or penalties provided by this Act, the city may apply to the Court of Queen's Bench for the appointment of a receiver of the rents and profits issuing from the dwelling or non-residential property.

Am. S.M. 1972, c. 93, s. 87.

Court may appoint receiver.

650 (2) On an application referred to in subsection (1), the Court of Queen's Bench may appoint a receiver if it appears to the court to be just and convenient to order that the appointment be made, and any such order may be made either unconditionally or upon such terms and conditions as the court deems just.

Notice of application.

650 (3) At least one month prior to making the application, notice of the city's intention to apply for the appointment of a receiver shall be served by registered mail addressed to the owner and any registered encumberancer, and shall indicate the grounds upon which it is intended to rely in support of the application.

Duty of receiver.

650 (4) A receiver appointed pursuant to subsection (1). shall, with all reasonable speed, remove the fire hazard, or the threat to health or safety and during the term of the receivership, the receiver shall repair and maintain the dwelling or non-residential property and may make any other improvements he considers advisable to effect the rehabilitation of the dwelling or non-residential property so that safe and habitable conditions will exist for the remaining useful life of the property.

Am. S.M. 1972, c. 93, s. 87

Rents payable to receiver.

650 (5) Notwithstanding section 647, after a receiver has been appointed, rent accruing due from a tenant of the dwelling or non-residential property shall be paid to him.

Am. S.M. 1972, c. 93, s. 87.

Registration of order appointing receiver.

650 (6) An order appointing a receiver under this section shall be registered as a caveat under The Real Property Act forthwith after it is made.

S.M. 1971, c. 105, s. 650; Am. S.M. 1972, c. 93, s. 87.

When council may act.

651 Notwithstanding any other provision of this Act, the council shall not act under sections 646, 649 or 650 unless a person has first been convicted of an ofefnce for failure to comply with an order in respect of the dwelling or non-residential property.

S.M. 1971, c. 105, s. 651; Am. S.M. 1972, c. 93, s. 87.

Loans by council.

652 (1) The council may make loans or grants, or both, in such amounts and on such terms as to the council seem advisable,

(a) for the improvement of dwellings up to the standard of fitness for human habitation provided by by-law enacted pursuant to section 641;
(b) for the improvement of dwellings beyond the standard of fitness for human habitation so provided;
(c) for the provision of additional dwelling units by the conversion of houses or of other buildings to provide such dwelling units; or
(d) for the maintenance and improvement of non-residential properties up to the standards fixed by a by-law passed pursuant to section 641.

Am. S.M. 1972, c. 93, s. 90

Manner of repayment of loan.

652 (2) The council shall determine the manner of repayment of loans, including interest, and may fix the interest to be paid at a rate below the rate at which the city is able to borrow money.

Lien.

652 (3) The city has a lien upon the dwelling or non-residential property in respect of which a loan is made pursuant to subsection (1) together with the interest thereon fixed by the council.

Am. S.M. 1972, c. 93, s. 87.

Registration of lien.

652 (4) A certificate of the clerk of the city as to the amount of the loan made pursuant to subsection (1) and the interest thereon, together with a description of the land occupied by or appurtenant to the dwelling or non-residential property in respect of which the loan was made, sufficient to identify the land shall be registered in the Winnipeg Land Titles Office against the land upon proper proof by affidavit of the clerk.

Am. S.M. 1972, c. 93, s. 87.

Discharge of lien.

652 (5) Upon repayment in full to the city of the amount of the loan made pursuant to subsection (1) and the interest thereon, a certificate of the clerk of the city may be registered in like manner as provided in subsection (4) and the land is thereupon discharged from liability with respect to the loan and interest and from the lien arising therefrom; provided that on application therefor, by the registered owner or a person authorized in writing by him, the clerk shall provide a certificate of repayment.

S.M. 1971, c. 105, s. 652; Am. S.M. 1972, c. 93, ss. 87 & 90.

EXCERPTS FROM SASKATCHEWAN
URBAN MUNICIPALITIES ACT

Section 84 - Power to make repairs ("Persons in default")
Section 91 - Validity of bylaws and resolutions
Section 92 - Penalties
Section 93 - Enforcement of bylaws
Section 94 - Bylaw enforcement officers
Section 95 - Warrant re: entry and inspection
Section 124 - Nuisances
Section 125 - Danger to public safety
Section 130 - Untidy or unsightly lands or buildings
Section 132 - Junked vehicles.

Persons in default

84 When a council has authority to direct by resolution or bylaw that any person shall do any matter or thing, the council may, by the same or another resolution or bylaw, direct that in default of its being done by that person, the matter or thing is to be done at the expense of the person in default, and the urban municipality may recover the expenses of doing so with costs:

(a) by action in any court of competent jurisdiction;

(b) in the same manner as municipal taxes; or

(c) by adding the expenses to, and thereby they form part of, the taxes on the land on which or with respect to which the work is done.

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Validity of bylaws and resolutions

91 (1) No bylaw or resolution is invalid merely because it was beyond the legislative jurisdiction of the council at the time it was enacted if it now conforms to this Act or any other Act, and every such bylaw or resolution and any agreement entered into pursuant to any such bylaw or resolution is, if otherwise legal and operative, deemed to be valid and binding according to its purport.

(2) A bylaw or resolution passed by a council, in accordance with, and in the exercise of the powers conferred by this Act and in good faith, is not open to question nor may it be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of any of its provisions.

Penalties re contravention of bylaws
92 (1) A council may pass bylaws for imposing a maximum fine for breach of any of the bylaws of the urban municipality passed pursuant to this or any other Act of not more than:

(a) $2 000 in the case of an individual;

(b) $5 000 in the case of a corporation;

and may, in so doing:

(c) impose a different maximum with respect to a first, second or subsequent conviction;

(d) provide for a maximum daily fine in the case of a continuing offence.

(2) When a maximum daily fine is provided for in accordance with clause (1)(d), the total of the accumulated daily fines is not limited by the maximum imposed in accordance with clause (1)(a) or (b).

(3) A council may, by bylaw, provide that fines may be paid by a person contravening a bylaw to the clerk or another designated municipal employee within a stated period of time and that, on payment as so provided, that person is not liable to prosecution for the offence.

(4) When the amount of a fine is fixed by a bylaw, a council may, by bylaw, provide for a discount of the fine for payment by the person committing the breach to a designated municipal employee within a stated period of time, and, on payment as so provided, that person is not liable to prosecution for the offence.

(5) Every person who contravenes any provision of any bylaw or an urban municipality is guilty of an offence and liable on summary conviction:

(a) to the penalty specified in the bylaw or in another bylaw providing for a penalty with respect to the contravention of that bylaw; or

(b) if no penalty is provided for by bylaw, to a fine of not more than:
  (i) $2 000 in the case of an individual;
  (ii) $5 000 in the case of a corporation.

(6) If no other provision is made respecting it, a fine pursuant to a bylaw of a council belongs to and forms part of the general revenue of the urban municipality.

(7) Notwithstanding any other Act, when a person is convicted or fined for a violation within the urban municipality of any provision of any Act or any regulation made pursuant to any Act on the information of a citizen, a member of a municipal police force or of a police force under contract to the urban

municipality or any other municipal employee paid by the urban municipality and not a member of a force directly or indirectly employed and paid by the Government of Saskatchewan, the fine imposed belongs to the urban municipality and the convicting judge shall dispose of the fine accordingly.

(8) All fines, penalties and forfeitures mentioned in this Act may be recovered and enforced with costs by summary conviction before a judge and, in default of payment, the person convicted may be imprisoned for a term of not more than 90 days, unless the fine or penalty or fine and licence fee are paid sooner.

(9) If a person is imprisoned as a result of a conviction for a contravention of a bylaw, the urban municipality shall pay that part of the expenses paid by the Government of Saskatchewan for the transport of that person to jail, and for his maintenance while there, that may be designated by the Lieutenant Governor in Council.

Enforcement of bylaws

93 (1) Any bylaw of an urban municipality may be enforced, and the contravention of any provision of the bylaw restrained, by any court on action brought by the urban municipality, whether of not any penalty is imposed for the contravention.

(2) Conviction of a person for a contravention of any provision of a bylaw does not relieve him from compliance with the bylaw, and the convicting judge or justice of the peace shall, in addition to any fine imposed, order the person to perform, within a specified period, any act or work necessary for the proper observance of the bylaw or to remedy the contravention of the bylaw.

(3) A person who fails to comply with an order made pursuant to subsection (2) within the period specified in the order, is guilty of an offence and liable on summary conviction to a fine of not more than $250 for each day during which the failure continues, to imprisonment for a term of not more than 90 days or to both such fine and imprisonment.

Bylaw enforcement officers

94 (1) A council may, by bylaw, appoint any bylaw enforcement officers that it considers necessary and define their duties and fix their remuneration.

(2) Bylaw enforcement officers appointed under the authority of a bylaw passed pursuant to subsection (1) may represent the urban municipality before a justice of the peace or judge of the Provincial Court of Saskatchewan in the prosecution of anyone who is charged with a contravention of a bylaw.

Warrant re entry and inspection

95 A justice who is satisfied by information on oath that there is reasonable ground to believe that there is in a building, receptacle or place:

(a) anything on or in respect of which any contravention of a bylaw of an urban municipality has been or is suspected to have been committed; or

(b) anything that there is reasonable ground to believe will afford evidence with respect to the contravention of a bylaw of an urban municipality;

may at any time issue a warrant under his hand authorizing a person named in the warrant to search the building, receptacle or place for any such thing, and to seize and carry it before the justice who issued the warrant or some other justice for the same territorial division to be dealt with by him according to law.

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Nuisances

124 (1) In this section:

(a) "building" includes any fence, scaffolding, structure or erection;

(b) "order" means an order of a council described in subsection (3).

(2) A council may declare any building to be a nuisance if, because of its ruinous or dilapidated state or its faulty construction, or for any other reason, the council is of the opinion that the building:

(a) is dangerous to the public safety or health; or

(b) substantially depreciates the value of other land or improvements in the vicinity.

(3) When a building has been declared to be a nuisance and after the council has given at least 14 days' written notice to the owner stating:

(a) the date, time and place of a meeting of the council at which the making of an order will be considered; and

(b) that the owner will be given an opportunity to be heard at the meeting before an order is made;

the council may order the owner, within the time specified in the order, which time is required to be not less than 45 days from the day on which the order is made:

(d) to demolish or remove the building and to fill in any open basement or excavation remaining on the site of the building after its demolition or removal or to take any other measures with respect to the basement or excavation that may be described in the order; or

(e) to remedy the condition of the building in the manner and to the extent described in the order.

(4) The owner of a building affected by an order or any other person having a registered interest in the building who considers himself aggrieved by the order may, within 45 days after the day on which the order is made, apply to a judge for a review of the matter and the judge may set aside, vary or modify the order on any terms as to costs and otherwise that he considers just, if he is satisfied:

(a) that the council has acted in a manner contrary to the intent and meaning of this section; or

(b) that the procedure required by this section has not been followed.

(5) If an owner does not comply with an order within the time specified in the order, the council may placard the building to protect the public and may proceed to have any work done that it considers necessary for the purpose of carrying out the order, and the cost of the work is to be added to, and thereby forms part of, the taxes on the land on which the building is or was situated.

(6) When the council proceeds pursuant to subsection (5) and the building is occupied, the council may, if it is of the opinion that the work cannot be conveniently carried out while the building is occupied, by written notice require the person occupying the building to vacate the building within one month.

(7) If a person to whom a notice has been given pursuant to subsection (6) fails to vacate the building within one month after receiving the notice, the council may apply ex parte to a judge for an order requiring that person to deliver up possession of the land on which the building is situated and of the building to a nominee of the council, and the judge may make any order, including an order as to costs, that he considers just.

(8) If the council proceeds pursuant to subsection (5) and removes or demolishes the building, it may sell or otherwise dispose of the building or the materials from the building, at any price that it considers reasonable, and shall pay the proceeds of the sale or other disposition, after deducting the amount of the cost of the work, any costs awarded to the council pursuant to subsection (7) and any taxes owing in respect of the building or the land on which it is situated, to the owner, mortgagee or other person entitled to the proceeds.

(9) A notice to an owner pursuant to subsection (3) or an order may be personally served on the owner or sent to him by registered mail at his address as shown by the last revised assessment roll or by the records of the proper Land Titles Office, or, if the owner is deceased or his address is unknown, a copy of the notice or order is to be published in at least two issues of a newspaper circulating in the urban municipality.

(10) No action lies against the urban municipality, the council, any member of the council or any municipal employee or agent with respect to any matter or thing done pursuant to this section.

Danger to public safety

125 (1) When, in the opinion of the council, an unoccupied building is damaged and is an imminent danger to the public safety, the council may take any reasonable emergency action that is required to secure the building and eliminate the danger, and the cost of that work is to be added to, and thereby forms part of, the taxes on the building on which the work is done and on the land on which the building is situated.

(2) When emergency action is taken pursuant to subsection (1), the clerk shall immediately send by registered mail to the owner of the building on which the work was done and of the land on which the building is situated a notice:

(a) advising him of the action of the urban municipality and of its intention to charge the cost of the work against the land and buildings; and

(b) inviting him or his agent to appear before the council if he is in disagreement with the need for the action of the urban municipality or the cost of the work, on a specific date stated in the notice, for the purpose of making representations with respect to the need for the action or the intention of the urban municipality to charge the costs of the emergency action against the land and buildings.

(3) On the recommendation of the medical health officer, the council may declare any occupied residential building to be dangerous to the health of the occupants of the building and may order the owner, his agent, the lessee or the occupant of the building to repair the building in the manner determined by the council within the time after service of the order that is specified in the order.

(4) If an order made pursuant to subsection (3) is not complied with within 14 days after the time specified for completion of the work in the order, the urban municipality may undertake the necessary work to repair the building.

(5) Any amounts expended by an urban municipality pursuant to this section are to be added to, and thereby form part of, the taxes on the building on which the work is done and on the land on which the building is situated.

. . .

Untidy or unsightly lands or buildings
130 (1) A council may control or regulate untidy or unsightly lands or buildings.

(2) A council or an authorized municipal employee may declare any land or buildings untidy or unsightly and may in writing order the occupant or owner of the land or buildings to remedy the untidiness or unsightliness within 10 days after the date of service of the order or, in the case of an appeal to council, from the date of council's decision or any longer time specified in the order.

(3) An order mentioned in subsection (2) is required:

(a) to state that if the owner or occupant knows of any reason why the work ordered to be performed should not be proceeded with he may, within 10 days, give notice to the clerk of his intention to appear before the council at its next meeting to dispute the order or otherwise to show cause why the work should not be proceeded with;

(b) to be served on the owner or occupant:
  (i) either personally or by registered mail; or
  (ii) if the owner or occupant is deceased or the address of the owner is unknown, by publication in two issues of a newspaper circulating in the urban municiaplity.

(4) If the owner or occupant appears before and satisfies the council that all or part of the work should not be proceeded with, the council may rescind or amend the order.

(5) If the owner or occupant:

(a) fails, neglects or refuses to remedy the condition or to carry out the work specified in the order; and

(b) has not given notice to the clerk within the time set out in the order of his intention to appear before the council at its next meeting;

the council or the authorized municipal employee may proceed to have the work done by the urban municipality and the cost of so doing is to be added to, and thereby forms part of, the taxes on the land or buildings on which the work was done.

. . .

Junked vehicles
132 (1) In this section, "junked vehicle" means any automobile, tractor, truck, trailer or other vehicle that:

(a) has no currently valid licence plates attached to it;

(b) is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition; and

(c) is located on private land, but is not within a structure erected in accordance with any law respecting the erection of buildings and structures in force within the urban municipality in which the land is situated, and that does not form a part of a business enterprise lawfully being operated on that land.

(2) A council may serve a notice on the owner or occupant of land who keeps a junked vehicle on the land setting out the time and place of a council meeting at which the owner or occupant may appear to show cause why the junked vehicle should not be removed from the land and destroyed or its condition remedied within the time specified in the notice.

(3) A notice mentioned in subsection (2) is to be served on the owner or occupant not less than three days before the day fixed for the meeting mentioned in the notice.

(4) If a junked vehicle is located on unoccupied land and the address of the owner is unknown to the council, the notice mentioned in subsection (2) may be served by publishing the notice in one issue of a newspaper circulating in the urban municipality not less than three days before the day fixed for the meeting mentioned in the notice.

(5) If the owner or occupant:

(a) does not appear befor the council; or

(b) appears before the council and fails to satisfy the council that the junked vehicle should not be removed from the land and destroyed or its condition remedied;

and the junked vehicle is not removed or its condition remedied within the time specified in the notice, the council may remove the junked vehicle from the land and destroy it, and the cost of so removing and destroying it may be added to, and thereby forms part of, the taxes on the land and buildings.

(6) If the owner or occupant appears before the council and satisfies the council that the junked vehicle should not be removed or that its condition need not be remedied, the council may withdraw the notice.

(7) The council is the sole judge as to whether or not an automobile, tractor, truck, trailer or other vehicle is a junked vehicle.

(8) No action lies against an urban municipality or any municipal employee or agent of the urban municipality for any reasonable or necessary acts committed in connection with the removal or destruction of a junked vehicle in accordance with this section.

EXCERPTS FROM BRITISH COLUMBIA

RESIDENTIAL TENANCY ACT - 1984

Section 8

(1) A landlord shall provide and maintain residential premises and residential property in a state of decoration and repair that

(a) complies with health, safety and housing standards required by law, and

(b) having regard to the age, character and locality of the residential property, would make it reasonably suitable for occupation by a reasonable tenant who would be willing to rent it.

(2) A landlord's duty under subsection (1)(a) applies notwithstanding that a tenant knew of a breach by the landlord of subsection (1)(a) at the time the landlord and tenant entered into the tenancy agreement.

(3) Subsection (1) does not apply to that part of residential premises owned by a tenant.

Section 9

(1) Where a landlord

(a) contravenes Section 8(1), or

(b) has failed, or may fail, to provide a service or facility he is obliged to provide under a tenancy agreement or under Section 6, a tenant may apply to a court for an order requiring the landlord to comply with this Act or the tenancy agreement.

(2) On an application under subsection (1), the court may order

(a) the landlord to comply with this Act or the tenancy agreement,

(b) a tenant to pay rent due to the landlord into court,

(c) that the rent paid into court be paid to the landlord to be applied to the costs and expenses of complying with this Act or the tenancy agreement as specified in the order, or

(d) that
(i) the rent paid into court, or
(ii) any future rent payable by the tenant or any other tenant affected by the landlord's act or omission,
be paid to a named person who shall hold the money paid to him in trust to be applied, as specified in the order, to the costs and expenses of complying with this Act or the tenancy agreement.

(3) Where an application is made to an arbitrator under subsection (1), subsection (2) does not apply and the arbitrator may order

(a) the landlord to comply with this Act or the tenancy agreement,

(b) the tenant affected by the landlord's act or omission to pay rent to a named person who shall hold the money paid to him in trust, or

(c) that the rent paid to a named person under paragraph (b)
  (i) be applied to the costs and expenses of complying with this Act or the tenancy agreement, or
  (ii) be paid to the landlord to be applied to the costs and expenses of complying with this Act or the tenancy agreement,
as specified in the order.

(4) An order under this section may contain terms respecting costs, expenses, remuneration and any other necessary matters.

(5) This section does not affect the right of a tenant to bring a proceeding against a landlord for breach of contract.

EXCERPTS FROM BRITISH COLUMBIA

MUNICIPAL ACT

Sections 692, 693 - Part 18, Division (1) - Health
Sections 734, 735 - Part 21, Division (5) - Building Regulations
Section 932 (excerpt) - Part 28, Division (5) - Nuisances and Disturbances
Section 936 - Part 28, Division (5) - Dangerous Erections

Health regulation

692. (1) Subject to the Health Act, the council may by bylaw

(a) regulate persons, their premises and their activities, to further the care, protection, promotion and preservation of the health of the inhabitants of the municipality;

(b) make regulations to prohibit the creation of unsanitary conditions; and

(c) require a person to remedy or remove an unsanitary condition for which he is responsible, or which exists on property owned, occupied or controlled by him.

(2) Subject to the Health Act, the council may undertake the measures deemed necessary to preserve public health and maintain sanitary conditions in the municipality, including the chlorination and fluoridation of the water supply.

(3) Notwithstanding subsection (2), the council shall not fluoridate the water supply unless and until 3/5 of the electors who vote on the question are in favour of fluoridation.

(4) A regulation made or contained in a bylaw adopted under subsection (1) is not valid until approved by the Minister of Health, who may consider and deal with it accordingly. R.S. 1960-255-634; 1974-106-Sch.

Order to abate dangerous conditions

693. The Supreme Court or the County Court may, on the certificate of the medical health officer, or a person fulfilling the duties of a medical health officer, appointed by a municipality or regional district, stating that there exists, in his opinion, serious apprehension of an epidemic breaking out in the municipality or of the spreading of a contagious or infectious disease of a serious character, and that there exists a real necessity for urgency, and on the evidence by affidavit of that medical health officer or other person as to the existence of danger to the public safety or health, declare any building, structure or erection of any kind, or any drain, ditch, watercourse, pond, surface water or any other matter or thing in or on any private land, street or highway, or in or about any building or structure, a nuisance and dangerous to the public safety or health. Further, the court may on application made by him, with the notice to the owner or occupier of any of those premises or otherwise as the court directs, and after hearing any parties then appearing, make a mandatory or other order deemed necessary to abate the nuisance, and may by that order name the time within which it shall be obeyed or complied with and by whom, and in default of compliance may order that anything in the order directed or required to be done may be done under the direction of the medical health officer or other person, and by the same or a further order may determine who shall bear and pay the costs and expenses incidental to it, and the cost of any application made under this section. R.S. 1960-255-635; 1974-56-20.

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Building regulations

734. The council may, for the health, safety and protection of persons and property, and subject to the Health Act and the Fire Services Act and their regulations, by bylaw

(a) regulate the construction, alteration, repair or demolition of buildings and structures;

(b) regulate the installation, alteration or repair of plumbing (including septic tanks and sewer connections), heating, air conditioning, electrical wiring and equipment, gas or oil piping and fittings, appliances and accessories of every nature and kind;

(c) establish areas to be known as fire limits and regulate the construction of buildings in specific area for precautions against fire, and discriminate and differentiate between areas in the character of the buildings permitted;

(d) regulate the seating arrangements and capacity of churches, theatres, halls and other places of public amusement or resort;

(e) require contractors, owners or other persons to obtain and hold a valid permit from the council, or the authorized official, before commencing and during the construction, installation, repair or alteration of gas or oil pipes and fittings, plumbing, heating, sewers, septic tanks, drains, electrical wiring, oil burners, tanks, pumps and similar works and buildings and structures of the kind, description or value described in the bylaw;

(f) prescribe conditions generally governing the issue and validity of permits, inspection of works, buildings and structures, and provide for the levying and collecting of permit fees and inspection charges;

(g) regulate or prohibit the moving of a building from one property to another in the municipality;

(h) require the fencing of private swimming pools or other pools, existing or prospective, according to specifications set out in the bylaw;

(i) regulate the construction and layout of trailer courts, mobile home parks and camping grounds and require that those courts, parks and grounds provide facilities specified in the bylaw;

(j) provide that no trailer or mobile home may be occupied as a residence or office unless its construction and facilities meet the standards specified in the bylaw; and

(k) require that, prior to occupancy of a building or part of it after construction, wrecking or alteration, or a change in class of occupancy of a building or part of it, an occupancy permit be obtained from the council or the authorized official. The permit may be withheld until the building or part of it complies with the health and safety requirements of the bylaws or of any statute.
R.S. 1960-255-714; 1964-33-68; 1968-33-173; 1978-22-10; (amended 1981-11-36 to be proclaimed, amendment not included).

Demolition of repair

735. (1) The Council may by bylaw authorize

(a) the demolition, removal or bringing up to a standard specified in the bylaw of a building, structure or thing, in whole or in part, that contravenes a bylaw or council believes is in an unsafe condition; or

(b) the filling in, covering over or alteration in whole or in part of an excavation that contravenes a bylaw, or council believes is in an unsafe condition.

(2) The bylaw shall provide for 30 days' notice of contemplated action to be given the owner, tenant or occupier of the real property affected.

(3) An appeal lies to the County Court against the contemplated action.

(4) Notice of an appeal shall be given to the municipality within 10 days from the date of the notice to the owner, tenant or occupier.

(5) The court shall hear and finally determine the matter, making the order it believes proper.

(6) An appeal from a decision of the court lies to the Court of Appeal with leave of a justice of the Court of Appeal.
RS1960-255-715; 1961-43-46; 1982-7-85, proclaimed effective September 7, 1982.

. . .

Nuisances and disturbances

932. The council may by bylaw

. . .

(g) prohibit persons from causing or permitting water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate around their premises, or from depositing or throwing bottles, broken glass or other rubbish in any open place;

(h) prohibit the owners or occupiers of real property from allowing property to become or to remain untidy or unsightly, and require the owners or occupiers of real property, or their agents, to remove from it any accumulation of filth, discarded materials or rubbish of any kind; and may provide that in default of the removal the municipality, by its employees and others, may enter and effect the removal at the expense of the person defaulting, and that the charges for doing do, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable on that real property as taxes in arrear;

(i) require the owners or occupiers of real property, or their agents, to eliminate or reduce the fouling or contaminating of the atmosphere through the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia; and prescribe measures and precautions to be taken for the purpose; and fix limits not to be exceeded for those emissions;

. . .

(k) require the owners or occupiers of real property, or their agents, to clear the property of brush, trees, noxious weeds or other growths; and may provide for default and addition to the tax roll as in paragraph (h);

(l) require the owners or occupiers of real property, or their agents, to prevent infestation by caterpillars and other noxious or destructive insects, and to clear the property of caterpillars and other noxious or destructive insects; and may provide for default and addition to the tax roll as in paragraph (h);

. . .

Removal of dangerous erections

936. (1) The council may declare a building, structure or erection of any kind, or a drain, ditch, watercourse, pond, surface water or other matter or thing, in or on private land or a highway, or in or about a building or structure, a nuisance, and may direct and order that it be removed, pulled down, filled up or otherwise dealt with by its owner, agent, lessee or occupier, as the council may determine and within the time after service of the order that may be named in it.

(2) Service of the order shall be effected by sending a copy by return registered mail to the owner of the land where the nuisance exists, and to all other persons whose names appear on the records of the land title office as having an interest in the land, and to the agent, if known, of the registered owner, and to any lessee and occupier of the land, the notice to be sent to the last known address of each interested person referred to in this subsection.

(3) The council may further order that, in case of default by the owner, agent, lessee or occupier to comply with the order within the period named in it, the municipality, by its employees and others, may enter and effect the removal, pulling down, filling up or other dealing at the expense of the person defaulting, and may further order that the charges for doing so, including all incidental expenses, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable on the land or real property as taxes in arrear.

(4) Where the nuisance so declared is a building, structure or erection, the council may, after the expiration of 60 days from the date of the mailing of the notice to the owner under subsection (2) and after the expiration of the period named in the order, sell by auction, or by public or private tender, or otherwise dispose of the building, structure or erection so ordered to be dealt with, or any part or material in it. From the proceeds of the sale or disposal, there shall be deducted for municipal use the actual costs, including incidental expenses, incurred by the municipality in carrying out the order, and the remainder of the proceeds shall be paid by the municipality to the owner or other person lawfully entitled.

(5) This section applies to any building, structure or erection of any kind which the council believes is so dilapidated or unclean as to be offensive to the community. RS1960-255-873; 1978-25-334.

SCHEDULE "A"

Pursuant to the Municipalities Act, the Lieutenant-Governor in Council approves the following code respecting standards for the maintenance and occupancy of residential properties:

RESIDENTIAL PROPERTIES MAINTENANCE AND OCCUPANCY CODE

1. In this Code,

(a) "accessory building" means a building, fence or other structure the use of which is incidental in the use of a dwelling and which is located in the yard around the dwelling;

(b) "dwelling" means a building any part of which is or is intended to be used for the purposes of human habitation, whether or not such building is in such state of disrepair as to be not fit for such purpose;

(c) "dwelling unit" means one or more rooms located within a dwelling and used or intended to be used for human habitation by one or more persons;

(d) "habitable room" means any room, other than a non-habitable room, in a dwelling unit;

(e) "non-habitable room" means any room or space in a dwelling used or intended to be used as a bathroom, toilet room, laundry, pantry, lobby, communication corridor, stairway, closet, recreation room, furnace room or other room or space for the service or maintenance of the dwelling or for public use, access or vertical travel between storeys;

(f) "owner" means any person entitled to any freehold or other estate or interest in land, at law or in equity, in possession, or in futurity or expectancy, such as a mortgagee, mortgager, lessee under lease, tenant, occupant, licencee, permittee or any other person having care, control, domain and management over the premises or who receives any rent or pays municipal taxes in respect thereof;

(g) "repair" means to take the necessary action to bring residential property to the standards prescribed herein;

(h) "residential property" means a dwelling with the yard around it and any accessory building in such yard;

(i) "sewage" means water-carried waste from residential property, together wich such ground, surface and storm waters as may be present;

(j) "sewer system" means the municipal sanitary sewer system where available or, otherwise, a private sewage disposal system that meets requirements of regulation under the Health Act;

(k) "standards" mean the standards of physical condition and of occupancy prescribed herein for residential property; and

(l) "yard" means the privately - or publicly - owned land around and appurtenant to the whole or any part of a dwelling and used or capable of being used in connection with the dwelling.

Scope

2. The purpose of this Code is to establish standards

(a) governing the condition, occupancy and maintenance of residential property; and

(b) providing safeguards for the safety, health and welfare of the general public and of occupants and users of residential property.

Administration

3. (1) An officer appointed by a municipality to administer a by-law that adopts this Code has the right to enter at all reasonable times upon any property within the municipality for the purpose of making any inspection that is necessary for the administration or enforcement of the by-law.

(2) Where an officer mentioned in subsection (1) is refused admission to any property within the municipality, the clerk may serve, or cause to be served, on the person having control of the property, a demand that the officer, named therein, be permitted to enter upon such property in accordance with that subsection.

(3) Service may be effected under subsection (2) by personal delivery to the person having control of the property or by depositing the demand in the mails in a prepaid registered envelope addressed to such person at his last known address.

(4) The service of a demand by mail as provided for in subsection (3) is deemed to be complete upon the expiration of six days after the deposit thereof in the mails.

(5) Proof of the service of a demand in either manner provided for in subsection (3) may be given by a certificate purporting to be signed by the clerk which sets forth the name of the person on whom such demand was made and the time, place and manner of service thereof.

(6) A document purporting to be a certificate of the clerk made pursuant to subsection (5) shall

(a) be admissible in evidence without proof of the signature; and

(b) be conclusive proof that the demand was served on the person named in the certificate.

Maintenance of Yards and Accessory Buildings

4. A yard shall

(a) be properly graded to insure rapid drainage of storm water therefrom to prevent ponding therein of the entrance of water into a basement or cellar;

(b) be kept reasonably clean and free from rubbish or other debris and from objects, holes, excavations or other conditions that might create a health, fire or accident hazard; and

(c) be maintained free of rag weed, poison ivy, poison sumac and other noxious plants.

5. (1) Sewage shall be discharged into a sewer system.

(2) Inadequately-treated sewage shall not be discharged onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.

6. Steps, walks, driveways, parking spaces and similar areas of a yard shall be maintained so as to afford safe passage under normal use and weather conditions.

7. (1) Any accessory building shall be kept in good repair and free from any condition that constitutes or is apt to create a health, fire or accident hazard.

(2) The exterior of an accessory building shall be kept weather resistant through the use of appropriate weather resistant materials, including paint and other preservatives.

(3) Where an accessory building or any condition in a yard harbours noxious insects or rodents, all necessary steps shall be taken to eliminate them and to prevent their reappearance.

(4) Dangerous accumulations of snow or ice or both shall be removed from the roof of an accessory building.

(5) If an accessory building is not maintained in accordance with the standards mentioned in this section, it shall be removed from the yard.

8. (1) Every dwelling unit shall be provided with such receptacles as may be necessary to contain all garbage, rubbish and ashes that accumulate therein or in the yard.

(2) Receptacles mentioned in subsection (1) shall

(a) be made of metal or plastic;

(b) be made of watertight construction;

(c) be provided with a tight-fitting cover; and

(d) be maintained in a clean state.

(3) Garbage, rubbish and ashes shall be promptly stored in receptacles mentioned in subsection (1), and shall be removed therefrom in accordance with regulations of the municipality where applicable or, otherwise, at least once during each week.

(4) Materials of an inflammable nature shall be safely stored or removed at once from the residential property.

Maintenance of Dwellings and Dwelling Units

9. Every part of a dwelling shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any additional weight that may be put on it through normal use.

10. (1) A foundation wall of a dwelling shall be maintained so as to prevent the entrance of moisture, insects and rodents.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes shoring of the wall where necessary, installing subsoil drains at the footing, grouting masonry cracks, waterproofing the wall and joists and using other suitable means.

11. (1) An exterior wall of dwelling and its components shall be maintained so as to prevent its deterioration due to weather and insects.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes painting, restoring or repairing the wall, coping or flashing, waterproofing joints or the wall itself, installing or repairing termite shields, and using other suitable means.

12. (1) A roof of a dwelling shall be maintained in a watertight condition so as to prevent leakage into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing the roof and flashing, applying waterproof coatings, installing or repairing eavestrough and rain water piping and using other suitable means.

(3) Dangerous accumulations of snow or ice or both shall be removed from the roof of a dwelling.

13. (1) Windows, exterior doors and basement or cellar hatchways of a dwelling shall be maintained so as to prevent the entrance of wind and precipitation into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes painting, renewing rotted or damaged doors, door frames, window frames, sashes and casing, refitting doors and windows, weather stripping, replacing defective door and window hardware, reglazing and using other suitable means.

14. (1) An inside or outside stair, or a porch, shall be maintained so as to be free of holes, cracks and any other condition that may constitute an accident hazard.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing

(a) treads or risers that show excessive wear or are broken, warped or loose; and

(b) supporting structural members that are rotted or deteriorated.

(3) On an open side of a stairway, balcony, landing or stairwell, a handrail or banister shall be installed so as to provide reasonable protection against accident or injury.

15. (1) Every chimney, smoke pipe and flue servicing a dwelling shall be maintained so as to prevent gases from leaking into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes cleaning the flue of obstructions, sealing open joints, repairing masonry and using other suitable means.

16. (1) Every fireplace used or intended to be used in a dwelling for burning fuel in open fires shall be maintained so that adjacent combustible material and structural members will not be heated to unsafe temperatures.

(2) Without limiting the generality of subsection (1), maintenance mentioned therein includes securing connection to a chimney that complies with standards hereof, lining with fire-resistant material and repairing and to relining, and installing, repairing and replacing the hearth.

17. (1) Every interior wall and ceiling in a dwelling shall be maintained so as to be free of large holes or cracks and loose plaster or other material, the collapse of which might cause injury.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or filling holes and cracks and removing and replacing loose or defective parts.

(3) The surface of wall or ceiling mentioned in subsection (1) shall be finished so as to be reasonably smooth, clean, tight and easily cleaned.

18. (1) Subject to section 19, every floor in a dwelling shall be maintained so as to be free of loose, warped, protruding, broken or rotted boards that might cause an accident, or admit rodents into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing floor boards and repairing, replacing or removing any floor covering that has become unduly worn or torn so that it retains dirt.

19. (1) A bathroom floor or toilet floor shall be maintained so as to be reasonably impervious to water and to permit easy cleaning.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes installing, repairing, refinishing and replacing the floor or floor covering so as to provide the waterproof and cleaning conditions required.

20. In addition to other standards pertaining thereto, every floor, wall, ceiling, furnishing and fixture in a dwelling or dwelling unit shall be maintained in a clean and sanitary condition.

21. (1) A dwelling shall be kept free of rodents and insects at all times, and methods used for exterminating rodents or insects or both shall conform with generally accepted practice.

(2) A basement or cellar window used or intended to be used for ventilation, and any other opening in a basement or cellar that might let in rodents shall be screened with wire mesh or such other material as will effectively exclude rodents.

(3) During the time of year when insects may enter a dwelling, each outside door shall be equipped with a self-closing device, and every opening that opens to outdoor space, used or intended to be used for ventilation, shall be appropriately screened with wire mesh or such other material as will effectively exclude insects.

Standards of Fitness for Occupancy

22. (1) Plumbing is not required to be contained in a dwelling or dwelling unit but, where it is so contained, it shall be connected to a sewer system in such manner as to discharge all wastes therefrom into such system.

(2) All plumbing, whether a drain pipe, water pipe, water closet, connecting line to the sewer system, or other plumbing fixture, shall be maintained in good working order and free from leaks and defects.

23. (1) Where a dwelling contains plumbing, the following shall be supplied and maintained in good working order, connected to the sewer system, and accessible to and available for each ten or fewer persons or family occupying the dwelling:

(a) a toilet, served with cold running water;

(b) a wash basin, served with hot and cold running water; and

(c) a bathtub or shower, served with hot and cold running water.

(2) Hot water mentioned in subsection (1) shall be served at such temperature that it may be drawn from any tap at a temperature of not less than one hundred ten degrees Fahrenheit.

(3) Where a dwelling does not contain plumbing, toilet and bathroom facilities shall be supplied and maintained at a standard and in manner which, in the opinion of a District Medical Health Officer, does not constitute a health hazard and is not apt to create such hazard.

(4) Where a toilet is required by subsection (1), it shall be located within and accessible from within the dwelling.

(5) Where a toilet or urinal is used by the occupants of more than one dwelling unit, the room in which it is located shall be accessible only from a common hall.

(6) A toilet or urinal shall not be located within a room that is used for

(a) the preparation, cooking, storing or consumption of food; or

(b) sleeping purposes.

(7) A wash basin served by running water draining into a sewer system shall be located in the room that contains a toilet or in an adjoining room.

24. In each dwelling unit in a dwelling containing plumbing, hot and cold running water facilities, with a draining sink therefor connected to the sewer system, shall be supplied and maintained in good working order with a continuous supply of hot and cold running water.

25. (1) Every dwelling shall be provided with a heating system capable of maintaining a room temperature of seventy degrees Fahrenheit at five feet above floor level in all habitable rooms, bathrooms and toilet rooms when the temperature outside the dwelling is -20 degrees Fahrenheit.

(2) A heating system mentioned in subsection (1) shall be maintained in good working condition so as to be capable of heating the dwelling safely to the required standard.

(3) Where the temperature in a dwelling or dwelling unit is not controlled by the occupants thereof, such dwelling or dwelling unit shall be heated to the standard mentioned in subsection (1), except as mentioned in subsection (4), during every day between the first day of September and the first day of June in the next year.

(4) Notwithstanding subsection (3), the temperature required thereby applies only during the hours between seven o'clock in the morning and eleven o'clock in the afternoon, and such temperature may be reduced and maintained at sixty-five degrees Fahrenheit during other hours.

(5) Without restricting the generality of subsection (2), maintenance mentioned therein includes

(a) keeping rigid connections between a chimney or flue and any heating equipment, including cooking, that burns fuel;

(b) keeping rigid connections between equipment mentioned in clause (a) and its supply line; and

(c) keeping equipment that is not mentioned in clause (a) and that burns gaseous fuel properly vented to a duct leading to an outdoor space.

(6) No gas appliance of any kind may be installed or maintained in working condition with a gas supply in a room used or intended to be used for sleeping purposes.

(7) No person may use a room for sleeping purposes, or permit its use for such purpose, if the room contains any type of gas appliance in working condition with a gas supply.

(8) Where a heating system or part of it or any auxiliary heating system burns solid or liquid fuel, a place or receptacle for storage of the fuel shall be provided and maintained in a convenient location and properly constructed so as to be free from fire or accident hazards.

26. (1) All electrical wiring, equipment and appliances located or used in a dwelling shall be installed and maintained in good working order so as not to cause a fire or electrical shock hazard.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing defective wiring and equipment, installing additional circuits and any other repairs, alterations or installations required by or which may be required pursuant to regulation under the Electrical Installation and Inspection Act.

(3) When the capacity of a circuit within a dwelling or dwelling unit is in full or nearly full use, as indicated by the amperage or wattage requirements shown on the appliance or appliances in use, a person shall not use an additional appliance so as to increase the use beyond the capacity of the circuit.

27. (1) In a dwelling unit in which the occupants prepare food for their own consumption, or are intended to or are permitted to so prepare food, a suitable and convenient receptacle for storage of food, containing at least four cubic feet of space, shall be maintained in good repair and in a clean state.

(2) Some part of the storage space mentioned in subsection (1) shall be capable of sustaining a temperature low enough to preserve perishable foods for a reasonable time.

28. Every dwelling and each dwelling unit within it shall have a safe, continuous and unobstructed passage from the interior of the dwelling or dwelling unit to the outside of the dwelling at street or grade level.

29. (1) A source of light, such as a window, skylight, transparent or translucent panel, or a combination thereof, that faces directly on open space at least three feet wide and at least six inches above the adjoining finished grade or above an adjoining roof, and that admits as much natural light as would be transmitted through clear glass equal in area to ten per cent of the floor area of the room, shall be provided and maintained in good repair in every habitable room.

(2) The open space opposite a source of light shall not be obstructed in any way and, if it is obstructed, the light source facing the open space so obstructed shall not be included in calculating the area of light source for the room.

(3) Every bathroom and toilet room shall have a permanently installed artificial lighting fixture that shall be maintained in good working order.

(4) Every stairway, hall, cellar and basement, and every laundry room, furnace room and similar non-habitable work room in a dwelling shall have adequate artificial light available at all times.

30. (1) Every habitable room, bathroom and toilet room shall have adequate ventilation.

(2) Where an aperture such as a window, skylight or louver is used for ventilation, the aperture shall be maintained so as to be easily opened, kept open and closed.

(3) Where a dwelling or dwelling unit is ventilated by a system of mechanical ventilation or air conditioning, the system shall be maintained in good working order.

31. (1) A non-habitable room shall not be used as a habitable room.

(2) A dwelling unit shall have at least one hundred square feet of habitable room floor area for each person resident therein.

(3) Subject to subsection (5), a habitable room used for sleeping purposes shall have a floor area of at least

(a) sixty square feet, if so used by only one person; and

(b) forty square feet per person, if so used by more than one person.

(4) A habitable room shall be seven feet in height over at least one half of the floor.

(5) For the purposes of computing a floor area under subsection (3), any part of the floor under a ceiling that is less than five feet above the floor shall not be counted.

CITY TOWN VILLAGE **NEW BRUNSWICK**

BY-LAW NO.

A By-Law of the ______________________ of ______________________

Respecting dangerous or unsightly premises

Whereas Section 190 of the Municipalities Act provides as follows:

> 190(1) A municipality may by by-law provide that this section applies to such areas of the municipality as the by-law prescribes.
>
> 190(2) No person
>
> (a) shall permit property owned or occupied by him in an area or areas mentioned in any such by-law to be or to become dilapidated or deteriorated so as to be in a dangerous, unsightly or unhealthful condition, or
>
> (b) shall permit to be or to remain on such property owned or occupied by him in such area or areas mentioned in a by-law made under subsection (1) any ashes, junk, cleanings of yards, bodies or parts of automobiles or of other vehicles or machinery, rubbish or refuse,
>
> so as to cause such place to be dangerous, unsightly or unhealthful to all or any part of the public.
>
> 190(3) Where such conditions arise or exist, whether it arose before or after the passing of this Act, or of a by-law made under it, the council may instruct the clerk to serve notice on the owner or occupier requiring him to remedy the condition and specifying in such notice what is required to be done and the time in which to do it.
>
> 190(4) Such notice may be served by being posted in a conspicuous place upon the property or by personal service upon the person named therein.
>
> 190(5) In event of the failure of the person so notified to comply with the requirements of such notice, any person authorized by the council may enter upon the property without writ, warrant or other legal process and thereupon remedy the condition which the council has required to be remedied.

190(6) The cost of remedying the condition may be recovered by the municipality in an action for debt against the owner or occupier of the premises.

190(7) A person who has been served with a notice under subsection (3) and who fails to comply with the terms thereof is guilty of an offence under this Act.

THE COUNCIL OF THE ____________________ of ________________________

DULY ASSEMBLED HEREBY ENACTS AS FOLLOWS:

1. Section 190 of the Municipalities Act applies to the entire area within the municipal limits of the ______________________ of ________________________.

READ A FIRST TIME (by title) this ____________ day of __________________, 19____.

READ A SECOND TIME (by title) this ____________ day of __________________, 19____.

READ in its entirety in Council/in Committee of the whole Council (as the case may be) this ________ day of __________________, 19____.

READ A THIRD TIME (by title) AND ENACTED this ________ day of __________________, 19____.

____
CLERK

____
MAYOR

APPENDIX "C"

PROVINCIAL MODEL
MAINTENANCE AND OCCUPANCY
BYLAWS

Contents

Page

Newfoundland Occupancy and Maintenance Regulations 1

New Brunswick Model Maintenance and Occupancy Standards for Residential Properties Bylaw and Residential Properties Maintenance and Occupancy Code (Schedule "A") 10

New Brunswick Model Dangerous or Unsightly Premises Bylaw 23

APPENDIX "C"

NEWFOUNDLAND

PUBLISHED BY AUTHORITY

Under and by virtue of the powers conferred by Section 71 of the Urban and Rural Planning Act, Chapter 387 of the Revised Statutes of Newfoundland, 1970, and of all other powers enabling him in that behalf, the Honourable the Minister of Municipal Affairs has made the following Regulations which were approved by His Honour the Lieutenant-Governor in Council on the day of , 198 .

Dated at St. John's this day of A.D., 198 .

David Vardy
Clerk of the Executive Council

OCCUPANCY AND MAINTENANCE REGULATIONS, 198 .

PART I - GENERAL

1.1 TITLE:

These Regulations may be cited as the Town of ________________ Occupancy and Maintenance Regulations, 198 .

1.2 APPLICATIONS:

These Regulations shall apply throughout the Municipal Planning Area of the Town of ________________ as defined by the Minister in accordance with Section 12 of The Urban and Rural Planning Act.

1.3 INTERPRETATION:

In these Regulations, expressions used shall have the same respective meanings as in the Town of ________________ Land Use and Zoning Regulations approved from time to time by the Minister in accordance with Section 37 of The Urban and Rural Planning Act.

1.4 ADMINISTRATION:

These Regulations shall be administered by the Council of the Town of ________________ (hereinafter called the Council).

1.5 APPEAL:

Any individual, partnership, association or corporation aggrieved by a decision of the Council made pursuant to these Regulations may appeal to the appropriate appeal board. Council will provide the aggrieved with a written statement of the exact procedures to be followed.

1.6 OCCUPANCY:

No person shall occupy for human habitation or otherwise or being the owner thereof, shall permit to be occupied for human habitation or otherwise, any dwelling or structure which does not conform to the standards set out in these Regulations. All new dwellings and structures, all existing vacant dwellings and structures and any dwelling or structure which becomes unoccupied for any length of time for any reason will require an occupancy permit issued by Council before the proposed occupancy occurs. Departures from existing properties for annual vacation, temporary duty elsewhere, business trips or the like will not be considered as vacancies under these Regulations.

1.7 MAINTENANCE:

All properties in the planning area including land, buildings, structures, dwellings, fences, sheds, garages, parking lots, driveways, landscaping and all appurtenances thereto shall be maintained in a state of good condition and repair in accordance with the standards set out in these Regulations and as otherwise ordered by Council from time to time. This requirement applies to properties and structures in all areas including all designated zonings.

PART II - STANDARDS

2.1 STRUCTURAL SOUNDNESS:

Structural components of all buildings and dwellings shall be free from deterioration, loose jointing, sagging, bulging and excessive deflection of any kind and shall be capable of sustaining safely the weight of the structure or dwelling and any load to which it may be normally subjected.

2.2 PROPERTY DRAINAGE:

All land occupied for any purpose shall be provided with adequate surface water drainage over the whole area of the property to prevent ponding and to prevent run-off to adjacent properties, with suitable arrangements for the disposal of surface water without eroding or flooding.

2.3 FIRE PREVENTION:

All buildings and dwellings must meet the requirements of such local, provincial and national fire regulations as may be applicable. No building or dwelling will be permitted to be occupied that is considered to be a potential fire hazard due to its location, construction, contents or any other reason and all such structures or dwellings shall be made to conform to the appropriate codes and standards as adopted by Council before occupancy is permitted. Any occupied structure that is considered a fire hazard may be ordered vacated by Council until the applicable deficiencies have been corrected by the owner.

2.4 PEST CONTROL:

Every structure and dwelling shall be kept free of rodents, vermin and insects at all times and appropriate extermination measures shall be taken at the owner's expense when ordered by Council.

2.5 BASEMENTS:

The basement or cellar of every building or dwelling shall be dry and ventilated. Crawl spaces will be clean and dry and where wood skirting is used, it will be free from deterioration and neatly fitted to effectively seal out weather penetration.

2.6 DAMPNESS:

The floors, ceilings and walls of every building and dwelling unit shall be kept free from dampness. Attic space moisture condensation and interior sweat and mildew will not be permitted in any space.

2.7 BASEMENT HABITABLE ROOMS:

A room in the basement of any building or dwelling shall not be used as a habitable room unless:

a. The finished floor of such a room is not more than an average depth of 1143 mm below the finished grade of the property;

b. Such room is ventilated;

c. All walls below grade are effectively dampproofed resulting in a dry interior condition;

d. The interior of the basement wall is properly insulated and finished.

2.8 EXTERIOR WALLS:

Exterior walls and their components shall be adequate to support loads upon them and shall be maintained to prevent their deterioration from any cause. All exterior walls shall have an acceptable cladding or covering free of holes, cracks, damage or excessively worn surfaces and must effectively provide weather protection to the surfaces underneath. Exterior cladding or covering must be reasonably durable and be maintained in an acceptable appearance by periodic painting, cleaning, spot repairs, etc.

2.9 EXITS:

A single exit is permitted from the ground floor of a dwelling unit providing such exit is to the exterior at or near ground level and provides a safe, continuous and unobstructed means of egress. In all other situations, at least two exits are required. Buildings other than dwelling units will have exit provisions as required by the Building Code.

2.10 EXTERIOR DOORS:

Existing doors and frames shall be in sound condition, well fitted and operate satisfactorily. At least one entrance door in every unit shall be capable of being locked from both inside and outside. All exterior doors shall be weather stripped or have an appropriate combination of storm and screen door suitable for all year use.

2.11 PORCHES AND STAIRS:

All porches, balconies, landings, stairs and ancillary balustrades or handrails shall be well constructed and free from defects which constitute a safety hazard.

2.12 ROOFS:

All roof construction components shall provide adequate support for all probable loads and form a suitable base for the roof covering. A roof including the fascia board, soffit, cornice and flashing shall be maintained in a watertight condition so as to prevent leakage of water into the dwelling.

2.13 FIREPLACES, FUEL BURNING EQUIPMENT, CHIMNEYS, ETC.:

All fireplaces, fuel burning equipment, chimneys, etc., shall be maintained in safe, efficient condition.

2.14 FLOORS:

All floors shall be constructed so as to adequately accept the applied loads without undue deflection and damage. Existing structures and dwellings with defects in flooring systems will require correction before a new occupancy will be approved. Floor finishes will be smooth and clean and floor coverings in bathrooms, kitchens and dining rooms shall be in good repair and of such a nature to permit frequent cleaning. Excessively worn, deteriorated, cracked or torn finishes will not be permitted in any location.

2.15 INTERIOR WALLS AND CEILINGS:

Every wall and ceiling finish shall be maintained in a clean condition, free from holes, loose or deteriorated coverings or other defects which may increase the spread of fire. Such interior finish shall be washed, cleaned and/or painted to provide a sanitary finish when required by Council. Where fire resistant walls exist between separate dwelling units, they shall be maintained in a condition which retains their fire resistant quality.

2.16 HEATING AND WEATHERPROOFING:

All buildings and dwelling units shall be weatherproof and insulated so as to be capable of being adequately heated with a reasonable consumption of fuel. Heating equipment in every building and dwelling shall be in good working order and in good repair, free from fuel leaks and other defects and in the opinion of Council, non-hazardous to the occupants. Fuel storage equipment, supports, piping, etc., shall meet the requirements of the applicable regulations.

2.17 PLUMBING:

All plumbing, drain pipes, water pipes, water closets, sinks and other plumbing fixtures in every building and dwelling unit shall be maintained in good order and repair and in accordance with the requirements of the Council. Where necessary, due to the nature of the construction of the unit, all water pipes subject to the possibility of freezing shall be insulated, heated or otherwise protected. All plumbing fixtures will have suitable traps installed and all plumbing systems will be properly vented to the outdoors.

2.18 ELECTRICAL:

The electrical service, distribution equipment, wiring, equipment and appliances used in a building or dwelling unit shall be installed and maintained in accordance with the requirements of the Newfoundland and Labrador Hydro Commission. Exposed, loose wiring, broken or damaged switches or outlet covers, damaged fixtures, etc., shall not be permitted.

2.19 KITCHEN AND WASHROOM FACILITIES:

Every dwelling unit shall be provided with at least one kitchen sink, washbasin, water closet and bathtub or shower, connected to a piped water supply and an acceptable means of sewage disposal.

Every dwelling unit shall have provisions for a constant supply of both hot and cold water. Hot water tanks must be insulated and equipped with automatic temperature control. All fixtures will operate properly, free from leaks. Chipped, cracked and excessively worn porcelain, china or other finishes or fixtures will not be permitted.

2.20 KITCHEN FACILITIES:

Every dwelling unit shall contain a kitchen area equipped with a sink, served with hot and cold running water, storage facilities and a counter top work area. Space shall be provided for a stove and refrigerator. Counter top surfaces shall be in good condition, free from excessive wear, cracks and other defects. Each kitchen or working area shall be provided with at least one operable window or skylight opening to the external air and having an area of not less than 0.28 m^2 or with a mechanical system of ventilation satisfactory to the Council.

2.21 WASHROOMS:

All washrooms, including toilet and bathrooms shall be located within and accessible from within the building and shall be fully enclosed and have a lockable door to provide privacy. Where practicable, a wash basin shall be located in the same room as the water closet. Every washroom, toilet and bathroom shall be provided with at least one operable window or skylight opening to the external air and having an area of not less than 10% of the floor area of the room or with a mechanical system of ventilation, satisfactory to Council.

2.22 LIGHTING AND VENTILATION OF HABITABLE ROOMS:

Every habitable room in a dwelling unit shall contain a window or windows, operable and opening directly to the outside air and the total area of window or windows in every habitable room shall not be less than 10% of the floor area of such room. All window sashes shall be glazed and provided with suitable hardware.

2.23 SLEEPING ROOMS:

No rooms shall be used for sleeping purposes unless there is at least twelve (12) cubic meters of air space and five (5) square meters of floor space for each adult and at lest six (6) cubic meters of air space and three (3) square feet of floor space for each child under the age of twelve years, occupying such room and no room shall be used for sleeping purposes having a floor area of less than six (6) square meters. Existing rooms that are within 10% of these standards may normally be considered suitable for the intended purpose.

2.24 COOKING OF FOOD PROHIBITED IN SLEEPING ROOMS:

Where more than two persons occupy any dwelling unit, food shall not be prepared in any room used for sleeping purposes.

2.25 OVERCROWDING:

The occupancy of any dwelling unit having one habitable room shall not exceed two persons. The occupancy of any dwelling unit having more than one habitable room shall not exceed an average of three persons for every two habitable rooms. For the purpose of this Regulation, two children under twelve years of age shall be counted as one person and kitchens, dining rooms, porches, corridors, and storage rooms shall not be considered as habitable rooms. Units exceeding this criteria will be considered as overcrowded and occupancy will not be permitted.

2.26 STORAGE SPACE:

Every dwelling unit shall have general storage and closet space as required by applicable housing regulations or as determined by Council.

2.27 ENCLOSED SPACE ACCESS:

An access opening of at least six hundred (600) mm by seven hundred and fifty (750) mm shall be provided when required to attics, crawl spaces and other enclosed spaces. Where mechanical equipment is enclosed, the access opening shall be sufficiently large to permit the removal and replacement of the equipment. Enclosed attic, roof and crawl spaces shall be vented to the exterior.

2.28 ENTRANCE WALKS, DRIVEWAYS, STEPS, ETC.:

There shall be a surfaced walk leading from every building or dwelling unit to a street or to a surfaced driveway that connects to the street. Steps, walks, driveways, parking spaces and similar areas of a yard shall be maintained to afford safe passage, under normal use and weather conditions.

2.29 FENCES:

With the exception of hedges, walls or ornamental fences not exceeding seven hundred and fifty (750) mm in height, no fence shall extend in front of the building line. Fences, barriers and retained walls shall be kept in good repair and free from accident hazards.

2.30 STORAGE ON SITE:

The storage of any materials or equipment on the site of a building or dwelling unit shall be to the rear of the lot. All items will be neatly arranged and will not be permitted to cause inconvenience or imposition to adjoining properties. Storage space on corner lots will be screened.

2.31 DEBRIS PROHIBITED:

Land shall be free from debris, including any vehicle, trailer, or object, which is in a wrecked, discarded, or abandoned condition.

2.32 LANDSCAPING:

Land shall be protected by suitable ground cover which prevents erosion of the soil.

The plants and vegetation shall be kept trimmed so as not to become unsightly to neighbouring property.

PART III - ENFORCEMENT

3.1 COUNCIL AUTHORITY:

The Council may direct the owner of a dwelling unit or building which does not conform to the standard

a. to undertake such work as to make the dwelling unit or building conform to the standard;

b. to demolish all or any part of any building or dwelling, or structure or erection forming a part of the building or dwelling;

c. to clean-up and paint-up as required to provide a satisfactory condition of appearance and cleanliness;

within such time as the Council may specify and every such owner shall carry out the directions of the Council.

3.2 FAILURE TO COMPLY:

In the event that an owner does not comply with the directions of the Council, the Council may order the necessary work to be done to make the dwelling or building conform to the standards and recover the cost from the owner or the Council may order the demolition of the building. The owner shall carry out the demolition, but if the owner does not comply with the order, the Council may carry out the demolition through its officers, agents, employees or contractors and recover the cost of so doing as a civil debt from the owner.

3.3 CONFLICTING LEGISLATION:

Where a provision of this Regulation conflicts with a provision of another law or regulation in force in the town, the provisions that established the higher standard to protect the health, safety and welfare of the general public shall prevail.

3.4 CONTRAVENTION AND CONVICTION:

Every person who contravenes any of the provisions of this Regulation shall, upon conviction thereof, be liable to the penalties imposed by Section 134 of the Urban and Rural Planning Act.

These Regulations shall come into effect the day of
A.D., 198 .

BY-LAW NO. ______

MAINTENANCE AND OCCUPANCY STANDARDS FOR RESIDENTIAL PROPERTIES BY-LAW

The Council of the ______ of ______, under authority vested in it by subsection (1) of section 93 of the Municipalities Act, enacts as follows:

Title

1. This By-law may be cited as the Residential Properties Standards By-law.

Interpretation

2. In this By-law,

(a) "maintenance officer" means the maintenance officer appointed under section 5; and

(b) "notice" means a notice under clause (a) of section 7.

Scope

3. The purpose of this By-law is

(a) to establish standards to govern the condition, occupancy and maintenance of residential properties; and

(b) to provide safeguards for the safety, health and welfare of occupants and users of residential properties by requiring owners thereof to repair and maintain such property in accordance with established standards.

...2

Adoption of Code

4. The Maintenance and Occupancy Code for Residential Properties, approved by the Lieutenant-Governor in Council pursuant to section 94 of the said Act,is adopted by reference.

Appointment of Maintenance Officer

5. The Council shall appoint a maintenance officer who shall exercise such powers and perform such duties as are provided for herein.

Duty of Owner

6. The owner of residential property shall

(a) repair and maintain such property in accordance with standards set out in the code adopted by section 4, whether or not a notice has been served or sent under section 7; and

(b) where a notice has been received by him, repair such property as delineated in the notice within the time limit prescribed therein.

Notices

7. Where the owner of residential property fails to repair or maintain such property in accordance with the requirements of clause (a) of section 6, the maintenance officer may

(a) by written notice served personally on or sent by registered mail to such owner, delineate work required to repair such property and the time limit within which the work is to be carried out; or

(b) if in his opinion it would not be economic to repair a dwelling, accessory building or fence forming part of such property, recommend that the Council take action to require demolition or removal of such dwelling or accessory building.

...3

Enforcement

8. (1) A notice sent by registered mail is deemed to be received by the addressee upon the expiration of four days after the day on which it was registered in an envelope with postage prepaid and addressed to such person at his last known address.

(2) Proof of service of a notice under clause (a) of section 7 may be by a certificate or an affidavit purporting to be signed by the maintenance officer naming the person on or to whom the notice was served or sent and specifying the time, place and manner thereof.

(3) A document which purports to be a certificate or an affidavit that the notice was given in the manner provided herein shall

(a) be admissable in evidence without proof of the signature; and

(b) be conclusive proof that the person named in the certificate or affidavit received notice of the matters referred to therein.

(4) In a prosecution for an offence hereunder when proof of the giving of notice is made as prescribed herein, the burden of proving that he is not the person named or referred to in the certificate or affidavit shall be upon the person charged.

(5) A notice given hereunder and purporting to be signed by the maintenance officer shall

(a) be received in evidence by any court in the province without proof of the signature thereon;

(b) be *prima facie* evidence of the repairs required thereby and time limit prescribed therein; and

....4

(c) on the hearing of an information for a violation of the provisions of clause (b) of section 6, be *prima facie* evidence that the person named therein is the owner of the premises in respect of which the notice was given.

9. A person who contravenes any provision of this By-law is guilty of an offence and is liable on summary conviction to a fine of

(a) fifteen dollars, in the case of the contravention of the provisions of clause (a) of section 6; or

(b) not less than twenty-five and not more than one hundred dollars, in the case of the contravention of the provisions of clause (b) of section 6.

READ FIRST TIME:

READ SECOND TIME:

READ THIRD TIME
AND ENACTED:

....
Clerk Mayor

SCHEDULE "A"

Pursuant to the Municipalities Act, the Lieutenant-Governor in Council approves the following code respecting standards for the maintenance and occupancy of residential properties:

RESIDENTIAL PROPERTIES MAINTENANCE AND OCCUPANCY CODE

1. In this Code,

(a) "accessory building" means a building, fence or other structure the use of which is incidental in the use of a dwelling and which is located in the yard around the dwelling;

(b) "dwelling" means a building any part of which is or is intended to be used for the purposes of human habitation, whether or not such building is in such state of disrepair as to be not fit for such purpose;

(c) "dwelling unit" means one or more rooms located within a dwelling and used or intended to be used for human habitation by one or more persons;

(d) "habitable room" means any room, other than a non-habitable room, in a dwelling unit;

(e) "non-habitable room" means any room or space in a dwelling used or intended to be used as a bathroom, toilet room, laundry, pantry, lobby, communication corridor, stairway, closet, recreation room, furnace room or other room or space for the service or maintenance of the dwelling or for public use, access or vertical travel between storeys;

(f) "owner" means any person entitled to any freehold or other estate or interest in land, at law or in equity, in possession, or in futurity or expectancy, such as a mortgagee, mortgager, lessee under lease, tenant, occupant, licencee, permittee or any other person having care, control, domain and management over the premises or who receives any rent or pays municipal taxes in respect thereof;

(g) "repair" means to take the necessary action to bring residential property to the standards prescribed herein;

(h) "residential property" means a dwelling with the yard around it and any accessory building in such yard;

(i) "sewage" means water-carried waste from residential property, together wich such ground, surface and storm waters as may be present;

(j) "sewer system" means the municipal sanitary sewer system where available or, otherwise, a private sewage disposal system that meets requirements of regulation under the Health Act;

(k) "standards" mean the standards of physical condition and of occupancy prescribed herein for residential property; and

(1) "yard" means the privately - or publicly - owned land around and appurtenant to the whole or any part of a dwelling and used or capable of being used in connection with the dwelling.

Scope

2. The purpose of this Code is to establish standards

(a) governing the condition, occupancy and maintenance of residential property; and

(b) providing safeguards for the safety, health and welfare of the general public and of occupants and users of residential property.

Administration

3. (1) An officer appointed by a municipality to administer a by-law that adopts this Code has the right to enter at all reasonable times upon any property within the municipality for the purpose of making any inspection that is necessary for the administration or enforcement of the by-law.

(2) Where an officer mentioned in subsection (1) is refused admission to any property within the municipality, the clerk may serve, or cause to be served, on the person having control of the property, a demand that the officer, named therein, be permitted to enter upon such property in accordance with that subsection.

(3) Service may be effected under subsection (2) by personal delivery to the person having control of the property or by depositing the demand in the mails in a prepaid registered envelope addressed to such person at his last known address.

(4) The service of a demand by mail as provided for in subsection (3) is deemed to be complete upon the expiration of six days after the deposit thereof in the mails.

(5) Proof of the service of a demand in either manner provided for in subsection (3) may be given by a certificate purporting to be signed by the clerk which sets forth the name of the person on whom such demand was made and the time, place and manner of service thereof.

(6) A document purporting to be a certificate of the clerk made pursuant to subsection (5) shall

(a) be admissible in evidence without proof of the signature; and

(b) be conclusive proof that the demand was served on the person named in the certificate.

Maintenance of Yards and Accessory Buildings

4. A yard shall

(a) be properly graded to insure rapid drainage of storm water therefrom to prevent ponding therein of the entrance of water into a basement or cellar;

(b) be kept reasonably clean and free from rubbish or other debris and from objects, holes, excavations or other conditions that might create a health, fire or accident hazard; and

(c) be maintained free of rag weed, poison ivy, poison sumac and other noxious plants.

5. (1) Sewage shall be discharged into a sewer system.

(2) Inadequately-treated sewage shall not be discharged onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.

6. Steps, walks, driveways, parking spaces and similar areas of a yard shall be maintained so as to afford safe passage under normal use and weather conditions.

7. (1) Any accessory building shall be kept in good repair and free from any condition that constitutes or is apt to create a health, fire or accident hazard.

(2) The exterior of an accessory building shall be kept weather resistant through the use of appropriate weather resistant materials, including paint and other preservatives.

(3) Where an accessory building or any condition in a yard harbours noxious insects or rodents, all necessary steps shall be taken to eliminate them and to prevent their reappearance.

(4) Dangerous accumulations of snow or ice or both shall be removed from the roof of an accessory building.

(5) If an accessory building is not maintained in accordance with the standards mentioned in this section, it shall be removed from the yard.

8. (1) Every dwelling unit shall be provided with such receptacles as may be necessary to contain all garbage, rubbish and ashes that accumulate therein or in the yard.

(2) Receptacles mentioned in subsection (1) shall

(a) be made of metal or plastic;

(b) be made of watertight construction;

(c) be provided with a tight-fitting cover; and

(d) be maintained in a clean state.

(3) Garbage, rubbish and ashes shall be promptly stored in receptacles mentioned in subsection (1), and shall be removed therefrom in accordance with regulations of the municipality where applicable or, otherwise, at least once during each week.

(4) Materials of an inflammable nature shall be safely stored or removed at once from the residential property.

Maintenance of Dwellings and Dwelling Units

9. Every part of a dwelling shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any additional weight that may be put on it through normal use.

10. (1) A foundation wall of a dwelling shall be maintained so as to prevent the entrance of moisture, insects and rodents.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes shoring of the wall where necessary, installing subsoil drains at the footing, grouting masonry cracks, waterproofing the wall and joists and using other suitable means.

11. (1) An exterior wall of dwelling and its components shall be maintained so as to prevent its deterioration due to weather and insects.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes painting, restoring or repairing the wall, coping or flashing, waterproofing joints or the wall itself, installing or repairing termite shields, and using other suitable means.

12. (1) A roof of a dwelling shall be maintained in a watertight condition so as to prevent leakage into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing the roof and flashing, applying waterproof coatings, installing or repairing eavestrough and rain water piping and using other suitable means.

(3) Dangerous accumulations of snow or ice or both shall be removed from the roof of a dwelling.

13. (1) Windows, exterior doors and basement or cellar hatchways of a dwelling shall be maintained so as to prevent the entrance of wind and precipitation into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes painting, renewing rotted or damaged doors, door frames, window frames, sashes and casing, refitting doors and windows, weather stripping, replacing defective door and window hardware, reglazing and using other suitable means.

14. (1) An inside or outside stair, or a porch, shall be maintained so as to be free of holes, cracks and any other condition that may constitute an accident hazard.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing

(a) treads or risers that show excessive wear or are broken, warped or loose; and

(b) supporting structural members that are rotted or deteriorated.

(3) On an open side of a stairway, balcony, landing or stairwell, a handrail or banister shall be installed so as to provide reasonable protection against accident or injury.

15. (1) Every chimney, smoke pipe and flue servicing a dwelling shall be maintained so as to prevent gases from leaking into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes cleaning the flue of obstructions, sealing open joints, repairing masonry and using other suitable means.

16. (1) Every fireplace used or intended to be used in a dwelling for burning fuel in open fires shall be maintained so that adjacent combustible material and structural members will not be heated to unsafe temperatures.

(2) Without limiting the generality of subsection (1), maintenance mentioned therein includes securing connection to a chimney that complies with standards hereof, lining with fire-resistant material and repairing and to relining, and installing, repairing and replacing the hearth.

17. (1) Every interior wall and ceiling in a dwelling shall be maintained so as to be free of large holes or cracks and loose plaster or other material, the collapse of which might cause injury.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or filling holes and cracks and removing and replacing loose or defective parts.

(3) The surface of wall or ceiling mentioned in subsection (1) shall be finished so as to be reasonably smooth, clean, tight and easily cleaned.

18. (1) Subject to section 19, every floor in a dwelling shall be maintained so as to be free of loose, warped, protruding, broken or rotted boards that might cause an accident, or admit rodents into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing floor boards and repairing, replacing or removing any floor covering that has become unduly worn or torn so that it retains dirt.

19. (1) A bathroom floor or toilet floor shall be maintained so as to be reasonably impervious to water and to permit easy cleaning.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes installing, repairing, refinishing and replacing the floor or floor covering so as to provide the waterproof and cleaning conditions required.

20. In addition to other standards pertaining thereto, every floor, wall, ceiling, furnishing and fixture in a dwelling or dwelling unit shall be maintained in a clean and sanitary condition.

21. (1) A dwelling shall be kept free of rodents and insects at all times, and methods used for exterminating rodents or insects or both shall conform with generally accepted practice.

(2) A basement or cellar window used or intended to be used for ventilation, and any other opening in a basement or cellar that might let in rodents shall be screened with wire mesh or such other material as will effectively exclude rodents.

(3) During the time of year when insects may enter a dwelling, each outside door shall be equipped with a self-closing device, and every opening that opens to outdoor space, used or intended to be used for ventilation, shall be appropriately screened with wire mesh or such other material as will effectively exclude insects.

Standards of Fitness for Occupancy

22. (1) Plumbing is not required to be contained in a dwelling or dwelling unit but, where it is so contained, it shall be connected to a sewer system in such manner as to discharge all wastes therefrom into such system.

(2) All plumbing, whether a drain pipe, water pipe, water closet, connecting line to the sewer system, or other plumbing fixture, shall be maintained in good working order and free from leaks and defects.

23. (1) Where a dwelling contains plumbing, the following shall be supplied and maintained in good working order, connected to the sewer system, and accessible to and available for each ten or fewer persons or family occupying the dwelling:

(a) a toilet, served with cold running water;

(b) a wash basin, served with hot and cold running water; and

(c) a bathtub or shower, served with hot and cold running water.

(2) Hot water mentioned in subsection (1) shall be served at such temperature that it may be drawn from any tap at a temperature of not less than one hundred ten degrees Fahrenhe

(3) Where a dwelling does not contain plumbing, toilet and bathroom facilities shall be supplied and maintained at a standard and in manner which, in the opinion of a District Medical Health Officer, does not constitute a health hazard and is not apt to create such hazard.

(4) Where a toilet is required by subsection (1), it shall be located within and accessible from within the dwelling.

(5) Where a toilet or urinal is used by the occupants of more than one dwelling unit, the room in which it is located shall be accessible only from a common hall.

(6) A toilet or urinal shall not be located within a room that is used for

(a) the preparation, cooking, storing or consumption of food; or

(b) sleeping purposes.

(7) A wash basin served by running water draining into a sewer system shall be located in the room that contains a toilet or in an adjoining room.

24. In each dwelling unit in a dwelling containing plumbing, hot and cold running water facilities, with a draining sink therefor connected to the sewer system, shall be supplied and maintained in good working order with a continuous supply of hot and cold running water.

25. (1) Every dwelling shall be provided with a heating system capable of maintaining a room temperature of seventy degrees Fahrenheit at five feet above floor level in all habitable rooms, bathrooms and toilet rooms when the temperature outside the dwelling is -20 degrees Fahrenheit.

(2) A heating system mentioned in subsection (1) shall be maintained in good working condition so as to be capable of heating the dwelling safely to the required standard.

(3) Where the temperature in a dwelling or dwelling unit is not controlled by the occupants thereof, such dwelling or dwelling unit shall be heated to the standard mentioned in subsection (1), except as mentioned in subsection (4), during every day between the first day of September and the first day of June in the next year.

(4) Notwithstanding subsection (3), the temperature required thereby applies only during the hours between seven o'clock in the morning and eleven o'clock in the afternoon, and such temperature may be reduced and maintained at sixty-five degrees Fahrenheit during other hours.

(5) Without restricting the generality of subsection (2), maintenance mentioned therein includes

(a) keeping rigid connections between a chimney or flue and any heating equipment, including cooking, that burns fuel;

(b) keeping rigid connections between equipment mentioned in clause (a) and its supply line; and

(c) keeping equipment that is not mentioned in clause (a) and that burns gaseous fuel properly vented to a duct leading to an outdoor space.

(6) No gas appliance of any kind may be installed or maintained in working condition with a gas supply in a room used or intended to be used for sleeping purposes.

(7) No person may use a room for sleeping purposes, or permit its use for such purpose, if the room contains any type of gas appliance in working condition with a gas supply.

(8) Where a heating system or part of it or any auxiliary heating system burns solid or liquid fuel, a place or receptacle for storage of the fuel shall be provided and maintained in a convenient location and properly constructed so as to be free from fire or accident hazards.

26. (1) All electrical wiring, equipment and appliances located or used in a dwelling shall be installed and maintained in good working order so as not to cause a fire or electrical shock hazard.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing defective wiring and equipment, installing additional circuits and any other repairs, alterations or installations required by or which may be required pursuant to regulation under the Electrical Installation and Inspection Act.

(3) When the capacity of a circuit within a dwelling or dwelling unit is in full or nearly full use, as indicated by the amperage or wattage requirements shown on the appliance or appliances in use, a person shall not use an additional appliance so as to increase the use beyond the capacity of the circuit.

27. (1) In a dwelling unit in which the occupants prepare food for their own consumption, or are intended to or are permitted to so prepare food, a suitable and convenient receptacle for storage of food, containing at least four cubic feet of space, shall be maintained in good repair and in a clean state.

(2) Some part of the storage space mentioned in subsection (1) shall be capable of sustaining a temperature low enough to preserve perishable foods for a reasonable time.

28. Every dwelling and each dwelling unit within it shall have a safe, continuous and unobstructed passage from the interior of the dwelling or dwelling unit to the outside of the dwelling at street or grade level.

29. (1) A source of light, such as a window, skylight, transparent or translucent panel, or a combination thereof, that faces directly on open space at least three feet wide and at least six inches above the adjoining finished grade or above an adjoining roof, and that admits as much natural light as would be transmitted through clear glass equal in area to ten per cent of the floor area of the room, shall be provided and maintained in good repair in every habitable room.

(2) The open space opposite a source of light shall not be obstructed in any way and, if it is obstructed, the light source facing the open space so obstructed shall not be included in calculating the area of light source for the room.

(3) Every bathroom and toilet room shall have a permanently installed artificial lighting fixture that shall be maintained in good working order.

(4) Every stairway, hall, cellar and basement, and every laundry room, furnace room and similar non-habitable work room in a dwelling shall have adequate artificial light available at all times.

30. (1) Every habitable room, bathroom and toilet room shall have adequate ventilation.

(2) Where an aperture such as a window, skylight or louver is used for ventilation, the aperture shall be maintained so as to be easily opened, kept open and closed.

(3) Where a dwelling or dwelling unit is ventilated by a system of mechanical ventilation or air conditioning, the system shall be maintained in good working order.

31. (1) A non-habitable room shall not be used as a habitable room.

(2) A dwelling unit shall have at least one hundred square feet of habitable room floor area for each person resident therein.

(3) Subject to subsection (5), a habitable room used for sleeping purposes shall have a floor area of at least

(a) sixty square feet, if so used by only one person; and

(b) forty square feet per person, if so used by more than one person..

(4) A habitable room shall be seven feet in height over at least one half of the floor.

(5) For the purposes of computing a floor area under subsection (3), any part of the floor under a ceiling that is less than five feet above the floor shall not be counted.

APPENDIX "D"
PROPERTY
MAINTENANCE AND OCCUPANCY
PROGRAMS
IN
SELECTED
MUNICIPALITIES

APPENDIX "D"

NOTES ON MAINTENANCE AND OCCUPANCY BYLAW PROGRAMS OF INDIVIDUAL MUNICIPALITIES

INTRODUCTION

As these interviews were conducted incidental to research investigating the provincial role with respect to M&O bylaws and their administration, no attempt was made to obtain a comprehensive profile of the M&O bylaws of individual communities. The information gathered may nevertheless be of some value.

St. John's, Newfoundland - (Interview with Wayne Purchase, Director of Buildings, 30 September 1983)

The City of St. John's is empowered to enact its own bylaws by the St. John's Act. It has both a Maintenance and Housing Bylaw and a Commercial Maintenance Bylaw. The City has also adopted the Life Safety Regulations (SEE discussion of Newfoundland's Fire Commissioner's Office).

Provisions of the St. John's Act must not conflict with those of the Municipalities Act. If there were any conflicts (which there were not) the provincial legislation would prevail. Mr. Purchase said that the Corner Brook enabling legislation is more general, and more in line with the thinking of the Provincial Government. The St. John's Act, however, specifies what types of fines may be levied, how appeals should be handled, etc.

Under the Director of Buildings there is a Minimum Property Standards Division, which has, in addition to its director, seven minimum standards inspectors and two building inspectors who work on RRAP. The department has its own electrical and plumbing inspectors, who are called upon as necessary.

I had been informed by the Province that St. John's was then seeking, under a new initiative, to get all buildings brought up to standard. Mr. Purchase elaborated on this, stating that, each spring, inspectors are sent out to make routine inspections in certain geographical areas, including all the RRAP areas, but not the newer subdivisions. These spring inspections are quick, exterior ones, but the inspector notes which properties may need an interior inspection later in the year.

Each inspector has a territory. Regardless of what else he does, the inspector is expected to make a certain number of routine inspections (eg., inspections not stemming from a complaint). Mr. Purchase said this system has worked well.

Where a violation(s) is found, the inspector writes up a notice and indicates the time frame within which the defect(s) must be corrected, indicating that failure to comply would lead to legal action. (In practice, fewer than five per cent of cases come to legal action. Inspectors make a practice of getting owners to come in to discuss needed repairs.) This notice is sent by registered mail. If it is returned unopened, the notice is posted on the building. The City has the power to make repairs, but this power has been used sparingly and then only for very serious violations.

If the violation concerns the electrical or plumbing system, the service can be turned off. Newfoundland Light and Power co-operates with respect to electrical violations, upon receipt of an inspection report from the City. With sanitary violations, the Buildings Department simply notifies the City department responsible for water services. If a person has been delinquent in paying electrical bills to the point where power has been turned off, Newfoundland Light and Power notifies the Buildings Department which routinely goes in and makes an inspection before the power can be turned on again.

All violation notices issued on properties located in RRAP areas are advised of the availability of RRAP. Property owners are also advised of their right to appeal orders. For this, the same appeals board is used that handles new construction matters. In seven years, however, Mr. Purchase said that there have been only a dozen appeals.

Where the Department issues a notice and there is no response, it often refers the matter to the City Solicitor, who in turn sends out another notice. When people see a letter signed by a lawyer, they often take greater notice, Mr. Purchase stated.

Where it is necessary to take a case to court, the City fares better than it once did, as the judges have now had time to learn that M&O bylaw violations can be as serious as some of the other matters that come before their courts. Thus, at an earlier period, token fines were sometimes levied, but magistrates now respond with more meaningful actions.

If a property is occupied but found not habitable, one approach that has been used is to ask the court to order eviction and give vacant possession to the City. (The Buildings Department liaises with the Department of Social Services (Provincial) or with the Newfoundland and Labrador Housing Corporation regarding relocation requirements.) With the property vacated, the City can change the locks and board up the windows, etc., until the owner agrees to make repairs. If repair or demolition is required, the City can do this, charging the costs to the property, which generally leads to the City taking the property back for unpaid taxes.

But with increasing property values in St. John's, this remedy is found to be necessary less and less frequently. Property owners are thus provided greater incentive to repair their property or put it up for sale to someone who will repair it.

With respect to such sales, the Department has the cooperation of the legal profession. Lawyers rather routinely seek a letter (for a $5.00 fee) to the effect that there are no outstanding violations on the property. The City had considered having outstanding violations registered as liens against the property, but found such a step not to be necessary in light of the high degree of cooperation from the legal profession.

This cooperation has not always been present, but after the bylaw came into effect and a number of people bought properties only to find outstanding violation orders on them, it became clear that this was a necessary service that should be provided by a lawyer to his/her client.

St. John's experience with this particular compliance technique illustrates the fact that it is wise to consider particular compliance techniques in the light of market conditions.

Other aspects of St. John's M&O bylaw administration are:

- In heritage areas, special efforts are made to see that properties in violation are repaired rather than demolished.
- During NIP days, complaints were received from NIP area residents at monthly meetings. Currently, the Department averages 50 complaints a day, the rate being higher in summer.
- The City also has a lodging house bylaw, which requires that houses with more than four paying guests be licensed and inspected. But, according to the Deputy Mayor, Suzanne Duff, inspectors cannot enter a dwelling without the owner's permission unless they have a court order, which can take months to obtain. The Newfoundland Community Services Council has complained that the housing allowance ($206/month) of the Province's Social Services Department is "far below the market prices" and that this contributes to the lack of repairs of many rooming houses. (Toronto Globe and Mail, 1984-02-18, "Better than a park bench: Poor running out of places to call home".)

Charlottetown, P.E.I. - (Interview with Harry Gaudet, RRAP Co-ordinator, 1 June 1983)

With its own charter having enabled it to have had an M&O bylaw as well as an unsightly premises bylaw for some time, Charlottetown (like Summerside) has been more regulated than other P.E.I. communities.

Up to June, 1983, approximately 60 per cent of dwellings in the City's RRAP areas had been inspected. In Area One, 80 per cent of dwellings have been inspected. The inspections seek out fire, safety or health hazards, and through these inspections the City has been able to seek out landlords who had been reluctant to rehabilitate their properties simply because of the availability of RRAP.

In these inspections, there has been good cooperation with fire inspectors, who will refer potential violations of a non-fire nature to the building inspectors. The Province carries out electrical inspections at the City's request, and also conducts health/sanitary inspections, although there is, as well, a city health inspector.

Under a recently enacted smoke detector bylaw, all properties in the City were to be inspected by fire personnel who, in turn, were to advise the Buildings Department of any apparent structural problems.

Charlottetown is empowered, under its M&O bylaw, to carry out repairs and bill them to the owner, should the latter refuse to do them. The other legal remedy is to take cases to court, and indeed there were half a dozen such cases in process at the time of my visit. But Mr. Gaudet cautioned that one has to have very solid evidence to initiate legal action, and stated that the courts have tended to be somewhat subjective. In a great majority of cases, however, property owners comply before it reaches court.

Halifax - (Interview with Cyril R. Morgan, Supervisor, Inspection Services, 19 July 1983)

The City of Halifax, under powers set forth in Part XIII of the Halifax City Charter, has a bylaw (Ordinance Number 157) governing "Minimum Standards for Existing Buildings and Housing Accommodations". Ordinance No. 157 dates to early 1973, but Halifax's maintenance and occupancy bylaw activity dates as far back as 1950, when there was a "Dwelling Inventory Stock-Taking", and to a 1964 Task Force on Housing recommendation.

This recommendation was that every house in the City be inspected. In practice, inspectors have indeed been through the entire City, but have not inspected houses which, from the exterior, would seem to present no problems. Further, I was told that inspectors know which are the landlords who maintain their properties well and which are the ones who need to be watched; they govern their inspectional activities accordingly.

Incidentally, even though Halifax is empowered to adopt a maintenance and occupancy bylaw, and similar bylaws under its own charter, it is nevertheless required to submit any proposed bylaws to the Ministry of Municipal Affairs. If the latter should fail to respond within a given period of time, the bylaw can be put into effect as submitted.

The official in charge of Halifax's M&O bylaw, Mr. Cyril Morgan, informed me that his unit works closely with fire officials, in this case the City Fire Chief. He explained that there is but one Fire Marshal in Nova Scotia, and he is a provincial official. Fire chiefs work closely with him.

A provisional regulation regarding sprinklers was put into place in 1977. This was not mandatory for Halifax, because the City has its own charter, but the City has nevertheless chosen to apply it. There is, in addition, a City ordinance concerning smoke detectors and fire alarms.

I was also told that, at one time, there had been talk of putting all electrical, plumbing and building inspectors under the Province. Assessors already are under Provincial jurisdiction. This had been back in 1976-77, before the present Government came into power. There has been no discussion.

If a building inspector finds an electrical, plumbing, fire or health problem, these are referred, through the maintenance standards supervisor, to the appropriate agency. They are particularly concerned about electrical/fire hazards. Three of the City's building inspectors are hired specifically for housing maintenance work, but there is some interchange of duties with the regular building inspectors (new construction). All have received the inspector training described in the body of the report.

Where a violation(s) is found, a form letter listing the deficiencies is sent to the owner, giving him/her 90 days to make necessary repairs. At the expiry of this period, a new inspection is made. If the violation(s) has not been corrected, the case is written up for prosecution by the City Prosecutor, with a copy to the owner. This official has now had over seven years' experience with M&O bylaw cases. But rather than move immediately to formal legal action, she ordinarily tries moral suasion first. This is not done by the Building Department; they simply send out the requisite notices. It has been found that having the moral suasion emanate from an attorney is more effective, and indeed quite a number of cases are reported to have been satisfactorily resolved in this fashion, without having to go to court.

Should a case have to go to court, it is tried by one of three judges, who handle housing cases on a rotating basis. Evidently all have enough experience with housing cases by now that, should a fine be necessary, a meaningful fine is levied, rather than one so small that it might simply be regarded as the equivalent of a license fee by the owner (as had been the case some years ago).

During recent years, the City has concentrated its door-to-door inspections in RRAP areas. But there has also been much inspection work to do in areas annexed by the City of Halifax, when the City tripled its land area. This is because standards had been lower in the annexed areas.

The peak of Halifax's inspection activity for RRAP and for Ordinance 157, "Minimum Standards for Existing Buildings and Housing Accommodations", was reached in 1971, when, during a nine month period, over 2 000 inspections have been carried out.

The net result of the urban renewal, NIP, RRAP and M&O bylaw activity, I was told, is that while there are still buildings in disrepair, there are now no slum areas, as such, in the City.

Further, since 1980 there has been a major turnaround from demolition of buildings in disrepair to rehabilitation. A major factor in this change of direction has been a new Municipal Development Plan, dating from the NIP project in the South End, which encourages owners to put more units into larger, old houses. Such conversions were felt to be necessary to make these buildings viable. The conversions are permitted if the exteriors of the buildings are not altered.

This is an example of a strategy which a municipality can take, supplementing its use of its M&O bylaw and the use of rehabilitation financing assistance such as RRAP, to encourage more effective maintenance of its housing stock.

Vancouver - The City of Vancouver has what is now called a "Joint Upgrading Program".

The City's earlier initiative was called an "Apartment Upgrading Program", and focussed mainly on fire hazards. In 1981, however, the City adopted a new Standards of Maintenance Bylaw, which combined the features of the old Standards of Maintenance and Lodging House Bylaws.

Council ruled that the new upgrading program was to be conducted on a planned priority basis as determined by the Director of Permits and Licenses, and the City has stated that all residential buildings are to be inspected, according to the above priority sequence.

In some areas, inspections are also conducted by members of the Fire Department Task Force on compliance with the Fire Code, but in any case, owners are advised of any violations of either the Standards of Maintenance Bylaw or the Fire Code.

The City makes sure that, where applicable, owners are advised of the availability of RRAP, and recent RRAP designations have been coordinated with the City's priority sequencing where the initial emphasis has been on rooming houses in the Downtown Core Area.

Features of this program, including the most innovative provisions for licensing rooming house operators, and the training and testing carried out to help landlords qualify for their licenses, was described in some detail on pp. 36-39 of CMHC's 1982 publication, "A Profile of Successful Maintenance and Occupancy Experience in Canada". (SEE Footnote No. 28, p.24).

APPENDIX "E"

CANADIAN COMMUNITIES
WITH
PROPERTY MAINTENANCE
AND
OCCUPANCY BYLAWS

(SEE also Tables I and II,
pp. 8 and 10)

APPENDIX "E"

MUNICIPALITIES KNOWN TO HAVE PROPERTY MAINTENANCE AND OCCUPANCY BYLAWS IN CANADA
JUNE, 1985

NEWFOUNDLAND

Berry Head
Bishop Falls
Burin
Corner Brook
Gambo
Gander
Grand Falls
Happy Valley Goose Bay
Kippens
Labrador City
Pasadena
St. John's Metro
Wedgewood Park
Stephenville
Windsor

PRINCE EDWARD ISLAND

Charlottetown
Summerside
Alberton
Borden
Central Bedeque
Cornwall
Georgetown
Kensington
Montague
North Rustica
Parkdale
O'Leary
Sherwood
Souris
Tignish
Tyne Valley
Wellington

NOTE: Until November, 1983, except for Charlottetown and Summerside which are empowered by their own charters to have M&O bylaws, P.E.I. lacked appropriate enabling legislation. The 15 other communities that have had M&O bylaws (although of questionable legal standing until November 1983) are now able to amend these bylaws to reference the new enabling legislation, which is also leading other communities to develop M&O bylaws now that their legal standing has been clarified. In addition, the Province has been assisting Southport - Bunbury in developing a bylaw under the new enabling legislation.

NOVA SCOTIA

a) The three cities: Halifax, Dartmouth, Sydney
b) 30 of the 39 incorporated towns:

Amherst
Antigonish
Bridgewater
Canso
Digby
Dominion
Glace Bay
Hantsport
Kentville
Liverpool
Lockport
Louisburg
Lunenburg
Mahone Bay
New Glasgow
New Waterford
North Sydney
Parrsboro
Pictou
Port Hawkesbury
Shelburne
Springhill
Stellarton
Sydney Mines
Trenton
Truro
Westville
Windsor
Wolfville
Yarmouth

c) Three rural municipalities: Cape Breton, Lunenburg, St. Mary's.

NEW BRUNSWICK

a) The six cities:

Bathurst	Fredericton
Campbellton	Moncton
Edmunston	Saint John

b) Approximately 16 of the 23 towns
c) Approximately 35 of the 85 villages

NOTE: Because municipalities that simply adopt New Brunswick's model bylaw and code by reference are not required to notify the Province, it does not have precise information as to just which municipalities have them. The figures shown in "b" and "c", above, are the estimate of the Provincial official most closely involved with the adoption and administration of such bylaws.

QUEBEC

Brossard
Hull
Jonquière
Laval
Longueuil
Mont Joli
Montréal
Montréal-Nord
Outremont
Québec (present bylaw applies only to areas where RRAP/LOGINOVE is available, but new bylaw covering entire city is under study)
Rimouski (bylaw is being studies)
St-Georges
St-Laurent
Valleyfield
Verdun

Approximately 40 other municipalities are reported to have codes du logement, but only in limited geographical areas.

NOTE: Montréal's and Québec's codes du logement are enacted under their own city charters, the others under provincial enabling legislation. The Province does not require municipalities enacting such regulations to notify it, and hence does not maintain a list of communities having done so, although it is now attempting to compile such a list.

ONTARIO

There are 215 property standards bylaws in place in Ontario, of which:

- 14 cover residential properties only
- 4 were enacted under legislation other than the Planning Act (City Charters or private bills)
- 26 are reported to be actively administered
- 78% of the population of Ontario live in communities where property maintenance and occupancy bylaws have been enacted.

The Ontario communities with M&O bylaws are:

Ajax
Alexandria
Almonte
Alnwick
Amabel
Amherstburg
Ancaster
Anson, Hindon & Minden
Armstrong
Arnprior
Atikokan
Aurora
Aylmer
Barrie
Barry's Bay
Bastard & South Burgess
Bath
Belleville
Bobcaygeon
Bothwell
Bradford
Brampton
Brantford
Brockville
Cambridge
Campbellford
Carleton Place
Chapleau
Chatham (City)
Chatham (Township)
Chesley
Clinton
Cobalt
Cobden
Coburg
Cochrane
Colborne
Collingwood
Cornwall
Cumberland
Deseronto
Dryden
Dummer
Dundas
Durham
Dymond
Dysart et al
East Gwillimbury
East York
Eilber & Devitt
Elizabethtown
Elliot Lake
Ernestown
Espanola
Essex
Etobicoke
Exeter
Flamborough
Forest
Fort Erie
Frankford
Gananoque
Georgina
Glencoe
Gloucester
Goderich
Gosfield South
Goulbourn
Gravenhurst
Grimsby
Guelph
Hallowell
Halton Hills
Hamilton
Hanover
Harrow
Harwich
Hastings
Havelock
Hawkesbury
Hearst
Hensall
Highgate
Huntsville
Ingersoll
Iroquois
Iroquois Falls
Kenora
Kincardine (Town)
Kincardine (Township)
Kingston
Kirkland Lake
Kitchener
Laird
Lakefield
Lanark
Leamington
Lincoln
Lindsay
London
Marathon
Markham
Marmora
Massey
Mattawa
Meaford
Merrickville
Michipicoten
Midland
Mildmay
Mississauga
Moonbeam
Muskoka Lakes
Napanee
Newboro
Newcastle
New Liskeard
Newmarket
Niagara Falls
North Bay
North York
Norwood
Oakville
Oil Springs
Orangeville
Orillia
Oshawa
Ottawa
Owen Sound
Owens, Williamson & Idington
Paisley
Palmerston
Paris
Parkhill
Parry Sound
Pelham
Pembrooke
Penetanguishene
Perth
Petawawa
Peterborough
Petrolia
Picton
Plympton
Point Edward
Port Colborne

The Ontario communities with M&O bylaws: (Cont'd)

Port Elgin
Port Hope
Portland
Port McNicoll
Port Stanley
Powassan
Prescott
Rear of Leeds & Lansdowne
Renfrew
Richmond Hill
Ridgetown
Rockland
Rodney
Russell
St. Catherines
St. Edmunds
Sandwich West
Sarnia (City)
Sarnia (Township)
Sault Ste Marie
Scarborough
Seaforth
Sioux Lookout
Smith
Smiths Falls
Smooth Rock Falls
Southampton
South Crosby
South-West Oxford
Stoney Creek
Stratford
Strathroy
Sudbury
Tecumseh
Thamesville
The North Shore
Thornbury
Thunder Bay
Tillsonburg
Timmins
Tiny
Toronto
Trenton
Tweed
Usborne
Uxbridge
Vanier
Vaughan
Wainfleet
Walkerton
Wallaceburg
Wasaga Beach
Webbwood
Welland
West Lorne
West Nissouri
Wheatley
Whitby
Wiarton
Wicksteed
Windsor
Wingham
Wollaston
Woodstock
York

MANITOBA

Brandon
Flin Flon
Portage la Prairie
The Pas
Winnipeg

SASKATCHEWAN

The New Urban Municipality Act, which for the first time permits municipalities to enact property maintenance (but not occupancy) bylaws, came into effect 1 November 1984.

This enabling legislation was sought by several Saskatchewan municipalities. At this writing, Regina and Saskatoon were preparing bylaws conforming with the new legislation.

ALBERTA

Edmonton
Drayton Valley
Vermilion
Barrhead
Wainwright
Calgary
Drumheller
Hanna
Trochu
Canmore
High River
Carbon
Beiseker
Acme
Bockyford
Bellevue
Lethbridge
Bassano
Ft. McLeod
Cardston
Bow Island
Medicine Hat
Red Deer

In addition, the Town of Wainwright was preparing an M&O bylaw at this writing.

BRITISH COLUMBIA

Vancouver (under powers in Vancouver City Charter).
Nelson
Rossland
Trail

British Columbia is now the only Canadian Province lacking enabling legislation for M&O bylaws. Thus, any of those communities with such bylaws (except for Vancouver) who were to bring a case to court would risk having their bylaw declared ultra vires.

APPENDIX "F"

STEERING COMMITTEE
AND
RESOURCE PEOPLE

APPENDIX "F"

This project would not have been possible without the active help of a number of individuals, both in and out of government.

In Ottawa, I relied heavily on my Steering Committee, comprised of CMHC National Office staff, who helped conceptualize the project, then reviewed interim reports and drafts of the report.

In each of the provinces, CMHC staff were helpful in sharing their knowledge with me, and putting me in touch with the most knowledgeable people in each province, in a number of cases arranging interview schedules, obtaining copies of provincial legislation, reviewing my drafts, and helping in a number of ways.

Most of all, I relied upon provincial and municipal officials, as well as upon staff of the various federations of municipalities, who were generous with their time for interviews, who provided references to still other resource people, and who carefully reviewed the drafts of the report, both in terms of accuracy and in terms of updating. While it is not possible to list all of the persons in this category who helped me, I have endeavoured to list those who were of essential help.

The Steering Committee

Robert W. Anderson, Director, Residential and Community Improvement Division

John Archer, Researcher, Research Division (resigned from CMHC and replaced by: G.S. (Gerry) Goldstein, Senior Researcher, Research Division

Gerry Duc, Senior Economist, Planning Division

Keith A. Hornsby, Manager, Rehabilitation Skills Training Centre, and subsequently of Portfolio Management Group

Katharine Kemp, Program Evaluator, Program Evalution Division

A.N. (Sandy) McGregor, Senior Solicitor, Legal Division

Newfoundland

Col. J.T. Allston, Director of Planning, Dept. of Municipal Affairs

Wayne Purchase, Director of Buildings, City of St. John's

Francis M. Ryan, Deputy Fire Commissioner (Province)

J.P. Ryan, Provincial Director, St. John's Branch, CMHC

Joan Shortt, RRAP Coordinator, City of St. John's

D.W. Smith, Executive Director, Newfoundland and Labrador Federation of Municipalities

M.J. (Mac) Woodman, St. John's Branch, CMHC

Prince Edward Island

Stanley Bishop, Director of Building & Development, P.E.I. Dept. of Community Affairs

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